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The Commonwealth of Massachusetts

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DEPARTMENT OF LABOR AND INDUSTRIES

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DIVISION OF INDUSTRIAL SAFETY

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INDUSTRIAL BULLETIN NO. 1

LABOR LAWS

RELATIVE TO HOURS OF LABOR AND MATTERS
PERTAINING TO HEALTH AND SAFETY OF EMPLOYEES
IN
MANUFACTURING, MERCANTILE AND OTHER
ESTABLISHMENTS

DEPARTMENT OF LABOR AND INDUSTRIES, DIVISION OF INDUSTRIAL SAFETY
State Office Building, 100 Cambridge Street, Boston, Mass.

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The Commonwealth of Massachusetts

DEPARTMENT OF LABOR AND INDUSTRIES
DIVISION OF INDUSTRIAL SAFETY
100 CAMBRIDGE STREET, BOSTON

Industrial Bulletin No. 1

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RELATIVE TO HOURS OF LABOR AND MATTERS
PERTAINING TO HEALTH AND SAFETY OF EMPLOYEES
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MANUFACTURING, MERCANTILE AND OTHER
ESTABLISHMENTS

THE GENERAL LAWS

SECTIONS OF CHAPTER 149 (TER.ED.) AS AMENDED
CHAPTER 26 OF THE ACTS OF 1962
SECTIONS OF CHAPTER 23 (TER.ED.) AS AMENDED
SECTION 1 OF CHAPTER 5 (TER.ED.) AS AMENDED
CHAPTER 96 OF THE ACTS OF 1959
AMENDMENTS INCLUDE THE ACTS OF 1974
AMENDMENTS INCLUDE THE ACTS OF 1976

I N D E X

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DEFINITIONS

SECTION 1. In this chapter the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

"Apprentice," a person defined in section eleven H of chapter twenty-three.

"Assistant commissioner," the assistant commissioner of the department of labor and industries.

"Associate commissioners," the associate commissioners of the department of labor and industries.

"Buildings used for industrial purposes" or "industrial establishments" shall include factories, workshops, bakeries, mechanical establishments, laundries, foundries, tenement house workrooms, all other buildings or parts thereof where manufacturing is carried on. Mercantile establishments as defined in this section, telegraph offices or telephone exchanges, express or transportation companies, private clubs, offices, letter shops, financial institutions, hotels, manicuring or hairdressing establishments, motion picture or other theaters and other places of amusements and garages.

"Child," a person under eighteen.

"Commissioner," the commissioner of labor and industries.

"Co-operative courses," courses approved as such by the department of education and conducted in public schools or any approved vocational school where technical or related instruction is given in conjunction with practical experience by employment in co-operating factories, manufacturing, mechanical or mercantile establishments or workshops or other co-operating employments.

"Department," the department of labor and industries.

"Discrimination," dismissal from employment of, or refusal to employ, any person between the ages of forty-five and sixty-five because of his age.

"Employee," as used in sections one hundred and five A to one hundred and five C inclusive, shall mean any person employed for hire by an employer in any lawful employment, but shall not include persons under the age eighteen engaged in domestic service in the home of the employer or persons engaged in agricultural service or employees of any social club, fraternal, charitable, educational, religious, scientific or literary association, no part of the net earnings of which enures to the benefit of any private individual.

"Employer," as used in said sections one hundred and five A to one hundred and five C, inclusive, shall include any person acting in the interests of an employer directly or indirectly.

"Employment," any trade, occupation or branch of industry, any particular method or process used therein, and the service of any particular employer but it shall not include private domestic service by persons under the age of eighteen or service as a farm laborer including all practices connected with agriculture, the tillage of the soil, the preparation and marketing of crops, and the construction and maintenance of farm property and equipment, customarily performed by a farmer on a farm, except the performance by a minor under the age of seventeen of structural painting or other work on the outside of any structure at a height of more than fifteen feet above the ground level. "Employment," as used in sections one hundred and five A to one hundred and five D, inclusive means, any employment under contract for hire, expressed or implied, written or oral, including all contracts entered into by helpers and assistants of employees, whether paid by employer or employee, if employed with the knowledge, actual or constructive, of the employer in which all or the greater part of the work is to be performed within the commonwealth.

"Employment permit," or "permit for employment," shall include any permit required by any provision of this chapter, in order to enable a child to be employed in any employment as herein defined, or in domestic service or service on a farm, or at home, or in an employment co-operating in a co-operative course.

"Extraordinary emergency," danger to property, life, public safety or public health.

"Factory," any premise where mechanical power is used in aid of any manufacturing process there carried on.

"Industrial disease" or "occupational disease," any ailment or disease caused by the nature or circumstances of the employment.

"Industrial health inspector," an inspector qualified by training and experience in matters relating to health and sanitation.

"Inspector," an inspector of the department of labor and industries, except an inspector of the division of standards.

"Iron works," a mill, forge or any premises where any process is carried on for converting iron into malleable iron, steel or tin plate, or for otherwise making or converting steel.

"Manufacturing establishments," any premises, room or place used for the purpose of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part thereof.

"Mechanical establishments," any premises, other than a factory as above defined, where machinery is employed in connection with any work or process carried on therein.

"Mercantile establishments," any premises used for the purpose of trade in the purchase or sale of any goods or merchandise, and any premises used for a restaurant or for publicly providing and serving meals and any premises used in connection with the service of cleansing, dyeing, laundering or pressing fabrics or wearing apparel.

"Place of employment," every place, whether indoors or out or underground, and the premises appurtenant thereto, into, in or upon which any employee goes or remains either temporarily or regularly in the course of his employment.

"Print works," any premises where the process of printing figures, patterns or designs upon yarn or cloth, or upon any woven or felted fabric not paper, is carried on.

"Safe," or "Safety," such freedom from danger to life, safety and health of employees as the nature of the employment will reasonably permit.

"Woman," a female eighteen or over.

"Workshop," any premises, room or place, not a factory as above defined, wherein manual labor is exercised by way of trade or for purposes of gain in or incidental to a process of making, altering, repairing, ornamenting, finishing or

adapting for sale any article or part thereof, and to which or over which premises, room or place the employer of the persons working therein has the right of access or control; but the exercise of such manual labor in a private house or private room by the family dwelling therein or by any of them, or if a majority of the persons therein employed are members of such family, shall not of itself constitute such house or room a workshop.

DUTIES AND POWERS OF DEPARTMENT OF LABOR AND INDUSTRIES

SECTION 2. The department shall, except as otherwise specifically provided, enforce the provisions of this chapter, and shall have all necessary powers therefor.

SECTION 3. The inspection and investigation carried on by the Department shall be a regular and systematic inspection and investigation of all places of employment, other than places of employment of persons engaged in domestic service in the home of the employer, and the conditions of safety and health pertaining thereto.

SECTION 4. The department shall promptly report to the department of public health all cases of disease in industrial establishments affecting the health of the community.

SECTION 5. The department may investigate conditions existing in any line of industry, and such investigations may be extended outside of the commonwealth to procure information to promote industrial development or to improve industrial conditions. It shall receive all complaints concerning conditions existing in any industry carried on in the commonwealth, or concerning alleged violations of any laws enforced under its direction, and shall thereupon make or direct all needful and appropriate investigations and prosecutions.

SECTION 6. It shall investigate from time to time employments and places of employment, other than places of employment of persons engaged in domestic service in the home of the employer, and determine what suitable safety devices or other reasonable means or requirements for the prevention of accidents shall be adopted or followed in any or all such employments or places of employment; and also shall determine what suitable devices or other reasonable means or requirements for the prevention of industrial or occupational diseases shall be adopted or followed in any or all such employments or places of employment; and shall make reasonable rules, regulations and orders for the prevention of accidents and the prevention of industrial or occupational diseases, and rules and regulations pertaining to structural painting, hereunder may provide for the payment of reasonable fees.

The rules and regulations for suitable safety devices or other reasonable means or requirements for the prevention of accidents shall also be applicable to self-employed and individual contractors who themselves work at the trade as well as to employees.

Whoever violates any rule, regulation or requirement made by the department under authority hereof shall be punished by a fine of not more than two hundred and fifty dollars for each offense. The department or its representative or any person aggrieved, any interested party or any officer of any labor union or association, whether incorporated or otherwise, may file a written complaint with the district court in the jurisdiction of which the violation occurs.

The provisions of this section and of sections three and five shall not apply to any employment or place of employment subject to the provisions of section twenty-eight of chapter seven.

SECTION 7. The commissioner, assistant commissioner and associate commissioners of the department may appoint committees, on which employers and employees shall be represented, to make such investigations and recommend rules and regulations.

SECTION 8. Before adopting any rule or regulation under section six, a public hearing shall be given, and not less than ten days before the hearing a notice thereof shall be published in at least three newspapers, of which one shall be published in Boston. Such rules or regulations, when approved by the associate commissioners and the assistant commissioner, shall, subject to section thirty-seven of chapter thirty, take effect thirty days after such approval or at such later time as the associate commissioners and the assistant commissioner may fix. Before adopting any order a hearing shall be given thereon, of which a notice of not less than ten days shall be given to the persons affected thereby.

SECTION 9. Any person affected by an order, rule or regulation of the department may appeal to the associate commissioners within such time as they by vote may fix, but not less than ten days after notice of the order or the taking effect of the rules or regulations. The associate commissioners shall thereupon give a hearing, and thereafter may amend, suspend or revoke such order, rule or regulation. Pending the hearing the commissioner may suspend the order, rule or regulation appealed from. Any person aggrieved by an order approved by the associate commissioners may appeal to the superior court within fifteen days after the date of approval. The superior court may annul the order if it is found to exceed the authority of the department, and upon petition of the commissioner may enforce all valid orders issued by the department. This section shall not deprive any person of any other lawful remedy.

SECTION 10. In order to make investigations under section six, members or employees of the Department may at any time enter places of employment, other than places of employment of persons engaged in domestic service in the home of the employer, when being used for business purposes.

SECTION 11. The department may require every physician treating a patient whom he believes to be suffering from any ailments or disease contracted as a result of the nature, circumstances or conditions of the patient's employment to report such information relating thereto as it may require, within such time as it may fix, and it may issue a list of such diseases which shall be regularly reported upon by physicians, and may add to or change such list at any time. The department shall pay no fee for such report. Copies of all such reports and all statistics and data compiled therefrom shall be kept by it, and shall be furnished on request to the department of industrial accidents and the department of public health. No such report shall be subject to summons nor shall its contents be made public.

SECTION 12. If any rule or regulation made under authority of section sixty-four of chapter one hundred and fifty-two conflicts with or differs from a rule or regulation of the department, its rule or regulation shall prevail.

SECTION 13. No person shall violate any reasonable rule, regulation, order or requirement made by the department under section six or eleven.

SECTION 14. The commissioner shall make an annual report, including the reports required by sections one hundred and sixty and one hundred and seventy of this chapter, section ten of chapter one hundred and fifty, section fifteen of chapter one hundred and fifty-one, and section fifty-seven of chapter ninety-eight.

SECTION 15. With the approval of the associate commissioners and the assistant commissioner, the commissioner may divide the commonwealth into inspection districts, and assign the necessary number of inspectors thereto.

SECTION 16. An inspector who directly or indirectly receives a reward, gift, or gratuity on account of his official services shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months, and shall also be discharged from office.

SECTION 17. For the enforcement of the provisions of this chapter, the commissioner, the assistant commissioner and the associate commissioners, and the director, inspectors, and other representatives of the division of industrial

safety may enter any places of employment, other than places of employment of persons engaged in domestic service in the home of the employer, and examine the methods of protection from accident, the means of escape from fire, the sanitary provisions, the lighting and means of ventilation, and make investigations as to the employment of women and minors and as to compliance with all provisions of this chapter, and shall have access to all records pertaining to wages, hours, and other conditions of employment which are found essential to such investigations.

SECTION 18. Every industrial health inspector shall inform himself concerning the health of all minors employed in factories within his district and whenever he may deem it advisable or necessary, he shall call the ill health or physical unfitness of any minor to the attention of his parents, guardians, or employer and of the department.

SAFETY ORDERS APPLICABLE TO LONGSHORE AND WATERFRONT OPERATIONS

SECTION 18A. Employers shall provide a change room with adequate storage facilities for clothes, shower baths and lavatories having hot and cold water, in every place of employment where the lack of such facilities would be harmful to health.

Every place of employment (dock, wharf, etc.), shall be provided with a sufficient number of water closets for the use of employees. Toilets shall be kept clean and supplied with an adequate supply of toilet paper.

Working areas, docks, stairways, etc., shall be provided with illumination which is adequate and suitable to secure the safety of employees.

Whenever harmful dusts, fumes, mists, vapors or gases exist in quantities harmful to employees, and the elimination of such hazards is not practicable, such hazards shall be controlled by ventilation or other means.

When it is impracticable to comply with the above requirement, the employer shall provide, and the employee exposed to such hazards shall use, approved respiratory protective equipment. This equipment shall be kept in sanitary condition.

Permanent floors, platforms, dock working areas, aisles and passageways shall be kept reasonably clear and in good repair. Where, due to lack of proper marking, aisles and passageways become hazardous, they shall be clearly defined by painted lines, curbs or other methods of marking. Where there is danger of slipping on these working areas, they shall be protected by the use of mats, cleats, high-friction surfaces or other equivalent protection.

The maximum weight of materials stored on building floors, load-carrying platforms or dock areas shall not exceed their safe-carrying. Material, wherever stored, shall be piled, stacked or racked in a manner designed to prevent it from tipping, falling, collapsing, rolling or spreading.

Hand tools and hand trucks shall be maintained in a safe condition. Unsafe tools or trucks shall not be used. Where there is danger of a portable ladder slipping in use, provision shall be made to secure the ladder in position by use of hooks, ropes, scabs, spikes, cleats or by other antislip devices, or by stationing an employee at the base of the ladder to hold it in position during use.

Ladders shall be maintained in good condition.

Ladders shall be faced, and both hands used, while ascending or descending.

Platforms, runways, ramps or other working areas four feet or more above the floor, ground or other working areas shall be guarded by a standard railing on all open sides, with the exception of open sides of loading or storage platforms which are used primarily for loading or unloading railroad cars or trucks, and open sides of storage platforms less than four feet wide, or portions thereof, which are loaded and unloaded exclusively by means of stackers or lift trucks handling pallet-supported loads.

Adequate and substantial bull rails, stringer rails or curbs shall be installed at

the water side of all flush aprons on wharves, docks or piers.

The employer shall require that tools, machinery, gear and other equipment subject to wear be inspected at regular intervals and unsafe conditions corrected. If found to be defective or otherwise unsafe, employees shall report same to the person in charge of work, who shall have it discarded, marked and so placed that it cannot be used again until made safe.

SECTION 18B. Before allowing employees to enter confined spaces where flammable, poisonous, asphyxiant, suffocant or anesthetic vapors, gases or dusts are likely to exist, the area shall be made free of the hazardous substance; employees shall be advised of the hazard; adequate ventilation shall be provided; and proper respiratory equipment shall be provided where necessary.

SECTION 18C. Power transmission equipment (such as gears, belts, pulleys, sprockets, etc.) shall be enclosed or guarded in a manner that will prevent accidental injury to workers.

Prime movers, machinery and equipment shall not be cleaned, adjusted or repaired while in motion. When, due to the process, it is not possible to shut down the machinery, extension swabs, brushes, scrapers or other extended tools shall be used to minimize employee hazards. Where the machine is equipped with lockable controls, the control shall be locked in the "off" position. Caution signs shall be placed on the controls of the machines during repair work.

SECTION 18D. All chains, wire ropes and fiber ropes shall be of sufficient strength to safely lift or otherwise handle the loads.

The use of deformed hooks or rings shall be discontinued.

All hooks, slings, bridles and fittings shall be of the correct size for the work to be done, and shall have sufficient strength to sustain the loads imposed upon them. Wire bridles shall have a covering of marlin, rubber hose or other suitable material for the protection of the employee's hands at the splice.

A crane, derrick, hoist or winch shall not be loaded beyond the rated capacity or safe working load, whichever is smaller.

The load shall be attached to the hook by means of slings or other suitable effective means, which shall be properly rigged to insure the safe handling of the load. Slings shall be free of kinks or twists before use.

No employee shall be required to or shall ride on loads, slings, hooks, buckets or skip boxes, except under conditions or exception covered by other orders of the division.

Operator shall never leave crane, hoist, derrick or winch while load is suspended unless the load is suspended over water or a barricaded area, or is blocked up or otherwise supported from below during repair or emergency.

Only qualified employees shall give signals. No one should give signals except employees who are specifically designated and authorized to do so by the employer. Operators shall not accept signals except from those specifically designated and authorized to give same.

SECTION 18E. Persons working in locations where there is a hazard to the head or eyes shall be safeguarded by means of head or eye protection.

Protection may be required for persons working under conditions where there is a hazard to the body, hands or feet.

Safety belts shall be of approved type. Lifelines shall be of strength equivalent to one-half inch manila rope.

At least two life buoys or life rings with appropriate lines attached shall be kept in conveniently accessible places where employees' work exposes them to the hazard of drowning, or each employee so exposed shall wear a life vest. Life vests may be required for workers who are in constant and imminent danger of drowning.

Readily located ladders shall be provided on all docks, wharves or piers where employees' work exposes them to the hazard of drowning. The ladders shall reach from the floor of the structure to the lowest water elevation. Portable

ladders shall be equipped with a substantial means to readily secure them to the structure.

SECTION 18F. Explosives and other dangerous articles and substances shall be loaded, unloaded, stored, transported or otherwise handled in accordance with United States Coast Guard regulations.

SECTION 18G. Every industrial truck (lift truck or jitney) and tractor, except those guided or controlled by a walking operator shall be equipped with a clearly audible horn or other warning device.

Every industrial truck (lift truck or jitney) operated from an end platform shall be equipped with a substantial guard to protect the operator. This guard should allow the operator quick and easy access to and from his operating position.

The division may require every high-lift truck (lift jitney) to be provided with a canopy guard which will protect the operator from falling objects.

Every high-lift industrial truck (lift jitney) handling small objects or unstable loads shall be equipped with a vertical back rest or back guard at the rear of the load platform. This does not apply to lift trucks equipped with canopy guards in compliance with preceding paragraph.

Every dock or car plate shall be constructed to support its load. It shall be safely secured in position and shall provide rigid security over its span. The end edges of the plate shall be in substantial contact with the dock or loading platform and the vehicle bed in a manner that will prevent rocking or sliding. Adequate and safe means shall be provided for moving plates.

Pallets shall be constructed and maintained with strength adequate for the loads being handled. They shall be kept in good repair. Pallets upon which employees customarily walk shall have no surface opening in excess of two inches in width.

Internal combustion engine-driven equipment shall not be operated inside of buildings or enclosed structures, if such operation would result in harmful exposure to concentrations of dangerous gases or fumes in excess of maximum acceptable concentrations. Exhaust products shall be discharged so as not to be a hazard to the operator.

The rated capacity of all high-lift trucks (lift jitneys) shall be displayed at all times on the vehicle so that it is readily visible to the operator. They shall not be loaded beyond their rated capacity. Counterweights may be added to increase lifting capacity, provided they do not impair the stability of the vehicle or stress any of the structural members beyond a safe limit.

Every employer shall promulgate, post and enforce a set of operating rules. These rules shall govern the control, operation and maintenance of all industrial trucks.

Refueling of internal combustion engine fuel tanks shall be done in designated areas. Suitable and adequate gasoline pumps shall be used. Gasoline shall not be handled in open containers. Motors shall be stopped and no source of ignition shall be permitted in the vicinity of the refueling operation. Federal and local regulations shall be enforced.

Before operating any truck, drivers shall check the vehicle and if it is found to be in any way unsafe, it shall be reported to the proper authority and shall not be operated until it has been made safe. Brakes shall be tested on starting each trip.

SECTION 18H. The employer shall provide blue stop signs for use by day and blue lights if night work is necessary, and shall cause them to be displayed before employees are permitted to work in, upon or under any standing railroad car or cars under conditions where unanticipated movement of such car or cars might endanger employees or equipment. The blue signals shall bear the word STOP in white letters not less than four inches in height on a blue background, and shall be placed on the track in a clear and unobstructed place. The signs shall

be not less than twelve inches by fifteen inches in size. The signals shall be placed at a height of three to five feet, and not less than ten feet from either or both ends of the cars, as necessary to provide protection. The blue stop signals shall be placed and removed by one of the employees working in and about the cars. This employee shall be selected, instructed and directed by the employer in the safe procedures involved in placing and removing the blue stop signals.

SECTION 18I. Any person violating any provision of the preceding sections eighteen A, eighteen B, eighteen C, eighteen D, eighteen E, eighteen F, eighteen G and eighteen H shall be punished by a fine of two hundred dollars.

GENERAL PROVISIONS AS TO EMPLOYMENT

SECTION 19. No person shall, by intimidation or force, prevent or seek to prevent a person from entering into or continuing in the employment of any person.

SECTION 19A. Any employer requiring a physical examination of an employee shall, upon request, cause said person to be furnished with a copy of the medical report following the said examination.

SECTION 19B. Any employer who subjects any person employed by him, or any person applying for employment, including any person applying for employment as a police officer, to a lie detector test, or requests, directly or indirectly, any such employee or applicant to take a lie detector test, shall be punished by a fine of not more than two hundred dollars. This section shall not apply to lie detector tests administered by law enforcement agencies as may be otherwise permitted in criminal investigations.

SECTION 19C. It shall be unlawful for any employer knowingly to employ any alien in the commonwealth, who is a student or visitor or, who has not been admitted to the United States for permanent residence, except those who are admitted under a work permit, or unless the employment of such alien is authorized by the attorney general of the United States. An employer shall not be deemed to have violated this section if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence, or admitted under a work permit, or is authorized by the attorney general of the United States to accept employment.

The commissioner of labor and industries shall promulgate regulations specifying the procedure to be followed by each employer to insure compliance with the provisions of this act.

Any person who violates any provision of this section shall be punished by a fine of not more than five hundred nor less than two hundred dollars.

SECTION 20. No person shall, himself or by his agent, coerce or compel a person into a written or oral agreement not to join or become a member of a labor organization as a condition of securing employment or continuing in the employment of such person.

SECTION 20A. No contract, whether written or oral, between any employee or prospective employee and his employer, prospective employer or any other person, whereby either party thereto undertakes or promises not to join or not to remain a member of some specified labor organization or any labor organization, or of some specified employer organization or any employer organization, and / or to withdraw from an employment relation in the event that he joins or remains a member of some specified labor organization or any labor organization, or of some specified employer organization or any employer organization, or organizations, shall afford any basis for the granting of legal or equitable relief by any court against a party to such undertaking or promise.

SECTION 20B. No officer or member of any association or organization, and no association or organization, participating or interested in a labor dispute, as defined in section twenty C, shall be held responsible or liable in any court for

the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof.

SECTION 20C. For the purpose of this and the preceding section, sections one, nine and nine A of chapter two hundred and fourteen, and sections thirteen A and thirteen B of chapter two hundred and twenty,—

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft or occupation; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or association of employers and one or more employers or association of employees; or (3) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) or "persons participating or interested" therein (as hereinafter defined).

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft or occupation.

(c) The term "labor dispute," when used in the sections hereinbefore referred to, includes any controversy concerning terms or conditions or employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange, terms or conditions of employment.

(d) Except as provided in subsection (e) of this section, the term "lawful labor dispute" includes any controversy concerning—

- (1) The association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange, terms or conditions of employment;
- (2) The recognition or bargaining status of a labor organization;
- (3) Rates of pay, wages, hire or tenure or hours of employment, or working conditions;
- (4) The execution or performance of an agreement to arbitrate an existing or future labor dispute;
- (5) The execution or performance of a collective bargaining agreement containing any lawful provision of a kind commonly found in collective bargaining agreements (including but not limited to any provision requiring as a condition of employment membership in a labor organization which is the exclusive representative of the employees in the appropriate collective bargaining unit covered by such an agreement when made); or
- (6) Any term or condition of employment which has heretofore been regarded as a lawful objective of concerted activities on the part of employees or labor organization.

The foregoing definition shall be applicable regardless of whether the disputants stand in the proximate relation of employer and employee, but shall not be deemed to include any "unlawful labor dispute" or "unlawful secondary boycott" as defined in the following subsections:—

(e) The term "unlawful labor dispute" includes any controversy arising out of a demand—

- (1) That an employer commit a criminal offence or unfair employment practice in violation of chapter one hundred and fifty-one B or unfair labor practice either in violation of chapter one hundred and fifty A, or in violation of the National Labor Relations Act:

- (2) That an employer include in a collective bargaining agreement any provision the execution or performance of which would be unlawful;
 - (3) That an employer recognize or bargain collectively with any labor organization as the representative of its employees in any bargaining unit while another labor organization is the representative of such employees certified by the labor relations commission established by section nine O of chapter twenty-three, or by the National Labor Relations Board, prior to the time said commission, or board, would conduct a new investigation and certification of representatives.
 - (4) That an employer recognize or bargain collectively with any labor organization as the representative of its employees in any bargaining unit within one year after the labor relations commission established by section nine O of chapter twenty-three has determined in a proceeding under section five of chapter one hundred and fifty A that such employees do not desire to be represented by such labor organization; or
 - (5) Made by any party to a jurisdictional dispute as defined in section nine B of chapter two hundred and fourteen who has failed to abide by any voluntary arbitration procedure applicable to such dispute or to comply with the terms of the arbitration award.
- (f) The term "unlawful secondary boycott" means any strike, slowdown, boycott, or concerted cessation of work or withholding of patronage or services, arising out of a labor dispute, where an object thereof is to force or require any person not otherwise engaged in such labor dispute to cease using, selling, handling, transporting, or dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person; provided, however, that a secondary boycott may lawfully be directed at a person the greater part of whose current business over a representative period is processing, selling, handling, transporting or otherwise dealing in the goods of an employer primarily interested in a lawful labor dispute or who, by any agreement, understanding or arrangement with such employer, is requiring his own employees to perform work or services which would be done by the employees of such employer in the absence of a labor dispute.

SECTION 20D. No employer and no person retained or engaged by him as a labor relations expert, adviser or consultant or retained or engaged by such employer for the purpose of dealing or negotiating with any of his employees or with any labor organization representing or seeking to represent or organize such employees shall, himself or by his agent, pay or deliver or agree to pay or deliver, directly or indirectly, to any employee or to any group or committee of employees, nor shall any employee or labor union official solicit or accept from any employer or any person so retained or engaged by him, or his agent, any money or other thing of value for the purpose of encouraging or discouraging, or in any way interfering with, any employee or employees in exercising their rights to organize or to select a representative, or for the purpose of preventing the continued existence, operation or functioning of a labor organization; provided, however, that this section shall not apply to the payment of wages by such employer to an employee who is a union representative, to any payment for the purchase of goods at the prevailing market price from a union representative, to the payment of any debt, to the transfer of union dues properly withheld from the salaries or wages of employees, to payments to employees' trust or welfare funds, or to payments of salaries or fees to an employee, representative or agent for the performance of any lawful activity with respect to the expression of views or opinions in connection with pending employee elections or labor disputes or other matters involving relations between such employer and his employees. Whoever violates any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment in jail for not more than one year, or both.

SECTION 21. Whoever knowingly causes to be printed or published a false or fraudulent notice or advertisement for help or for obtaining work or em-

ployment, or whoever, in an advertisement for help, if the person to be employed is required to purchase a particular article of value as a condition of his employment, fails to state that the offer of employment is contingent upon the purchase of such article and the purchase price of such article, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than three months, or both.

SECTION 22. If an employer, during the continuance of a strike, lockout or other labor trouble among his employees, publicly advertises in newspapers or by posters or otherwise for employees, or by himself or his agents solicits persons to work for him to fill the places of strikers, he shall plainly in type as prominent as the largest printed matter in the advertisement or poster and explicitly mention in such advertisement or oral or written solicitations that a strike, lockout or other labor trouble exists among his employees. Any such employer wishing to hire employees through an employment agency shall first notify such agency by registered mail of the fact that a strike, lockout or other labor trouble exists. No employer shall, during the continuance of a strike, lockout or labor dispute, hire a child without the written consent of his parent or guardian.

SECTION 22A. No person shall knowingly employ any professional strikebreaker in the place of an employee involved in a lockout or lawful strike. No professional strikebreaker shall take or offer to take the place in employment of an employee who is involved in a lockout or lawful strike. A "professional strikebreaker" is defined as a person who regularly and habitually earns a major portion of his livelihood by entering into employment where a lockout or strike exists to take the place of an employee whose work has ceased as a direct consequence of such lockout or strike.

No person shall engage in any activities or employ any person for the purpose of obstructing or interfering by force or threats with (1) peaceful picketing by employees during any labor controversy affecting wages, hours or conditions of labor, or (2) the exercise by employees of any of the rights granted employees under the provisions of chapter one hundred and fifty A or of the federal Labor-Management Relations Act of 1947.

This section shall not apply to the employment of any person whose services are necessary to ensure that the plant or other property of the employer involved in the strike or lockout is properly maintained and protected for the resumption at any time of normal operations.

Whoever violates any provisions of this section shall be punished by a fine of not more than five hundred dollars.

SECTION 2. Chapter one hundred and fifty D of the General Laws is hereby repealed.

SECTION 23. No person, during the continuance of a strike, lockout or other labor trouble among his employees or those of another person, shall directly or indirectly procure or attempt to procure, or assist in any way in procuring or attempting to procure, persons to fill the places of employees involved in such strike, lockout or other labor trouble, if such persons are or have been solicited by means of advertisements or oral or written statements in which it has not been plainly and explicitly mentioned that a strike, lockout or other labor trouble exists in the establishment where such persons are to be employed. This provision shall apply whether such advertisements or oral or written solicitations are made within or without the commonwealth. In printed advertisements or in signs or posters, the mention of the strike, lockout or other labor trouble shall be in letters as large as the largest letters used in the body of said advertisement, sign or poster.

Any person violating any provision of this or the preceding section shall be punished by a fine of not more than four hundred dollars.

SECTION 23A. No person during the continuance of a strike, lockout or other labor labor trouble among his employees or those of another person, shall directly or indirectly employ or procure for the protection of such employees any

armed guards other than watchmen regularly employed by such person, police officers or persons licensed under sections twenty-three to thirty, inclusive, of chapter one hundred and forty-seven or employees of such licensees; provided, that the foregoing shall not authorize the employing or procuring as aforesaid of any such licensee unless he shall have been so licensed at least two months prior to the commencement of such labor trouble, or of any employee of such a licensee unless such employee is a citizen of Massachusetts, and shall not have been convicted of a felony. Any person violating this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

SECTION 23B. The auxiliary police or other personnel originally organized by civil defense agencies under state or federal laws shall not be used or called upon for service as such in any industrial or labor dispute or to regulate picketing in connection with a strike.

SECTION 24. No person shall be punished criminally, or held liable or answerable in any action at law or suit in equity, for persuading or attempting to persuade, by printing or otherwise, any other person to do anything, or to pursue any line of conduct not unlawful or actionable or in violation of any martial or other legal duty, unless such persuasion or attempt to persuade is accompanied by injury or threat of injury to the person, property, business or occupation of the person persuaded or attempted to be persuaded, or by disorder or other unlawful conduct on the part of the person persuading or attempting to persuade, or is a part of an unlawful labor dispute or unlawful secondary boycott, or is a part of an unlawful or actionable conspiracy and not a part of a lawful labor dispute, nor for attending in the course of a lawful labor dispute, at any place where such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information or of so persuading or attempting to persuade.

DISCRIMINATION AGAINST CERTAIN PERSONS IN EMPLOYMENT ON ACCOUNT OF AGE

SECTION 24A. It is hereby declared to be against public policy to dismiss from employment any person between the ages of forty-five and sixty-five, or to refuse to employ him, because of his age.

SECTION 24B. Any provision in any contract, agreement or understanding entered into on or after October first, nineteen hundred and thirty-seven, which shall prevent or tend to prevent the employment of any person between the ages of forty-five and sixty-five because of his age shall be null and void.

SECTION 24C. The department shall investigate all complaints of discrimination, and for that purpose the commissioner or his authorized representative shall have full power and authority (1) to investigate and ascertain the age of each person employed within the commonwealth and (2) to enter any place of business or employment within the commonwealth for the purpose of examination and making a transcript of records in any way appertaining to or having a bearing upon the question of the age of any person so employed.

SECTION 24D. Every person shall keep true and accurate records of the ages of all persons employed by him, as far as practicable to do so, and shall upon demand furnish to the commissioner or his authorized representative a true copy of any such record, verified upon oath. Such records shall be open to investigation by the commissioner or his authorized representative at any reasonable time. Whoever violates any provision of this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and each day of failure to keep such records or to furnish such copies thereof, upon demand, to the commissioner or his authorized representative shall constitute a separate offense.

SECTION 24E. Whoever hinders or delays an inspector of the department, or a duly authorized representative of the commissioner in the performance of his duties in the investigation of a complaint under any provision of sections twenty-four A to twenty-four J, inclusive, or who refuses to admit any such inspector or

representative to any place necessary for him to enter in the performance of such duty, or whoever refuses to give such inspector or representative such information that he may require for the proper enforcement of any provision of said sections, shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

SECTION 24F. Whoever, personally or by his agent, shall discharge an employee for the reason that such employee has furnished evidence in connection with a complaint under any provision of said sections twenty-four A to twenty-four J, inclusive, or that such employee has testified in a judicial proceeding under any provision, shall be punished by a fine of not less than fifty nor more than two hundred dollars.

SECTION 24G. If the commissioner or any of his authorized representatives has reason to believe that any employer has dismissed from employment or has refused to employ any person between the ages of forty-five and sixty-five because of his age, the commissioner may, on ten days' notice, summon such employer to appear before him to show cause why the name of such employer should not be published as having failed to observe the provisions of section twenty-four A to twenty-four J, inclusive. After such hearing and the finding by the commissioner of non-observance of the provisions of said sections, the commissioner may cause to be published in a newspaper or newspapers circulating within this commonwealth or in such other manner as such commissioner may deem appropriate, the name of such employer as having failed to observe the provisions of said sections. Neither the commissioner nor any of his authorized representatives, nor any newspaper publisher, proprietor, editor nor employee thereof shall be liable for action for damages for publishing the name of any employer as provided for in this section, unless guilty of some wilful misrepresentation.

SECTION 24H. Any person aggrieved by any decision of the commissioner under any provisions of sections twenty-four A to twenty-four G, inclusive, may appeal to the superior court, for a review thereof within thirty days after the recommendation of such decision. Sections sixteen to twenty, inclusive, of chapter one hundred and fifty-one shall apply to and govern any such appeal.

SECTION 24I. Sections twenty-four A to twenty-four H, inclusive, shall not apply to persons employed in service as farm laborers.

SECTION 24J. If any part or subdivision of any of sections twenty-four A to twenty-four I, inclusive, or the application thereof, shall be held invalid, unconstitutional or inoperative as to any particular person, condition or circumstance, the remainder thereof, or the application of any such part of subdivision to any other person, condition, or circumstance, shall not be affected thereby.

SECTION 24K. Whoever, personally or by an agent, shall dismiss from employment or refuse to hire, solely because of his handicap, any rehabilitated handicapped person who possesses the physical and mental capacity to perform the functions required by said employment shall be punished by a fine of not less than twenty-five nor more than two hundred dollars.

SECTION 36. Sections thirty, thirty-one and thirty-four shall not apply to the preparation, printing, shipment and delivery of ballots to be used at a caucus, primary, state, city or town election, and said sections and sections forty-eight, and fifty-six and fifty-nine shall not apply during the sessions of the general court to persons employed in the legislative printing or binding; nor shall said sections, thirty, thirty-one and thirty-four apply to persons employed in any state, county or municipal institution, on a farm, or in the care of the grounds, in the stable, in the domestic or kitchen and dining room service or in store rooms or offices, or to persons employed by the commissioners of the Massachusetts maritime academy,

on boats maintained by the state police for the enforcement of certain laws in the waters of the commonwealth, or in connection with the care and maintenance of state armories, or to the purchase, operation or lease of farm machinery by the department of agriculture.

PRIVATE EMPLOYMENT

SECTION 45. Whoever requires an employee to work in any mill or factory on any legal holiday, except to perform such work as is both absolutely necessary and can lawfully be performed on Sunday, shall be punished by a fine of not more than five hundred dollars.*

SECTION 46. No person shall require or request any employee of a manufacturing or mechanical establishment to work more hours in any one day than is limited by law, in order to make up time lost by reason of a legal holiday. *

SECTION 47. Whoever, except at the request of the employee, requires an employee engaged in any commercial occupation or in the work of any industrial process not subject to the following section or in the work of transportation or communication to do on Sunday the usual work of his occupation, unless he is allowed during the six days next ensuing twenty-four consecutive hours without labor, shall be punished by a fine of not more than fifty dollars; but this and the following section shall not be construed as allowing any work on Sunday not otherwise authorized by law.

SECTION 48. Every employer of labor engaged in carrying on any manufacturing, mechanical or mercantile establishment or workshop in the commonwealth shall allow every person, except those specified in section fifty, but including watchmen and employees maintaining fires, employed in such manufacturing, mechanical or mercantile establishment or workshop at least twenty-four consecutive hours of rest which shall include an unbroken period comprising the hours between eight o'clock in the morning and five o'clock in the evening, in every seven consecutive days. No employer shall operate any such manufacturing, mechanical or mercantile establishment or workshop on Sunday unless he has complied with section fifty-one. Whoever violates this section shall be punished by a fine of fifty dollars.

SECTION 49. Sections forty-seven and forty-eight shall not apply to establishments used for the manufacture or distribution of gas, electricity, milk or water, to hotels, to transportation of food, nor to the sale or delivery of food by or in establishments other than restaurants.

Ch. 136, Section 13. The provisions of sections five to eleven, inclusive, shall, except as provided in section fourteen, apply to all legal holidays, except January the fifteenth, the third Monday in February, the third Monday in April, March seventeenth, June seventeenth, and the fourth Monday in October after one o'clock post meridian, or on the day following when either of said days occur on a Sunday.

Any establishment which operates on the fourth Monday in October under the exemption granted by this section shall pay to those employees required to work on this day, time and one-half or such larger sum as may be determined by contract.

*Legal holidays include January first, January the fifteenth, Martin Luther King's Birthday, Washington's Birthday, Patriot's Day, Memorial Day, June seventeenth in Suffolk County only, July fourth, the first Monday of September, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day. Such holidays shall be observed in the manner provided by Chapter 136 of the General Laws, as amended.

March seventeenth, a legal holiday in Suffolk County only, is expressly exempt from the provisions of Section 45.

SECTION 50. Sections forty-seven and forty-eight shall not apply to (a) janitors; (b) employees whose duties include no work on Sunday other than (1) setting sponges in bakeries, (2) caring for live animals, (3) caring for machinery; (c) employees engaged in the preparation, printing, publication, sale or delivery of newspapers; (d) farm or personal service; (e) any labor called for by an emergency that could not reasonably have been anticipated; (f) pharmacists employed in drug stores.

SECTION 50A. Every person employed as a watchman in establishments other than those described in section forty-eight, or employed in maintaining fires in such establishments, but not including janitors in residential apartment houses, shall be allowed at least twenty-four consecutive hours of rest in every seven consecutive days. No provision of any other section of this chapter shall be construed as limiting the rights given by this section. The term "watchman" as used in section forty-eight or in this section shall include guards in banks, as defined in section one of chapter one hundred and sixty-seven. An employer violating this section shall be punished by a fine of fifty dollars.

SECTION 51. Before operating on Sunday, every employer subject to section forty-eight or fifty A shall post in a conspicuous place on the premises a schedule containing a list of his employees who are required or allowed to work on Sunday, and designating the day of rest for each. No employee shall be required or allowed to work on the day of rest designated for him.

SECTION 51A. The commissioner, if it is proved to his satisfaction that special circumstances require an exemption from section forty-eight, may grant such exemption under such conditions as he deems necessary for a period not exceeding sixty days.

SECTION 51B. An injured worker who has received workmen's compensation under chapter one hundred and fifty-two shall have preference in re-employment by the employer for whom he worked at the time of his injury over other persons not previously employed by such employer; provided, that the available employment is suitable for the mental and physical well-being of the worker and is within his qualifications.

SECTION 52. Every Employer subject to Sections forty-seven and forty-eight shall keep a time book, open to Inspection by the Department, showing the names and addresses of all employees and the hours worked by each of them in each day. Whoever violates this section or section fifty-one shall be punished by a fine of fifty dollars.

SECTION 52A. Any member of an organized unit of the ready reserve of the armed forces, who, in order to receive military training with the armed forces of the United States not exceeding seventeen days in any one calendar year, leaves a position other than a temporary position in the employ of any employer, and who shall give notice to his employer of the date of departure and date of return for the purposes of military training, and of the satisfactory completion of such training immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority, and such period of absence for military training shall be construed as an absence with leave and, within the discretion of the employer, said leave may be with or without pay.

Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his employment normally to be anticipated in his particular position.

If any employer fails to comply with any of the provisions of this section, the employee may, at his election, bring an action at law for damages for such non-compliance or apply to the courts for such equitable relief as may be just and proper under the circumstances.

WORK BY WOMEN AND CHILDREN

* SECTION 53. Boxes, baskets and other receptacles weighing with their contents seventy-five pounds or over, which are to be moved by female employees in any manufacturing or mechanical establishment, shall be provided with pulleys or casters connected with such boxes or other receptacles, so as to be moved easily from place to place in such establishment. Whoever violates this section shall be punished by a fine of not more than fifty dollars.

* SECTION 53A. No female shall be permitted to lift or carry any object which weighs in excess of forty pounds. Whoever knowingly violates this section shall be punished by a fine of not more than fifty dollars.

* SECTION 54. The department shall investigate core rooms where women are employed, and shall make rules regulating the employment of women therein. The rules shall relate to the structure and location of the rooms, the emission of gases and fumes from ovens, and the size and weight which the women shall be allowed to lift or work on. A copy of the rules shall be posted in every core room where women are employed. Whoever violates any such rule shall be punished by a fine of not less than twenty-five nor more than five hundred dollars.

Section fifty-five of chapter one hundred and forty-nine of the General Laws is hereby repealed (chapter 345 of the Acts of 1974).

* SECTION 56. No child and no woman shall be employed or permitted to work in, or in connection with any factory or workshop, or any manufacturing, mercantile or mechanical establishment, telegraph office or telephone exchange, or any express or transportation company, or any private club, or any office, letter shop or financial institution, or any laundry, hotel, manicuring or hair dressing establishment, or any motion picture or other theatre or any other place of amusement, or any garage, or any hospital in a non-professional capacity, or in any beauty culture, weight reducing or other similar establishment, or be employed as an elevator operator, or as a switchboard operator in a private exchange or in domestic service in the home of the employer, more than nine hours in any one day, and, except as to transportation or telephone companies, and except as to hotels, private clubs and places of amusement where the employment is determined by the department to be by seasons, and except to hotels where meals are served only during three separate periods totalling not more than seven hours in any one day and the employment is connected with the serving of said meals, if the work so performed by such a child or woman in one day is not continuous, but is divided into two or more periods, the work of such child or woman shall be so arranged that all such periods of work shall fall within a period of not exceeding ten consecutive hours, except that in the case of mercantile establishments such periods of work may fall within a period of not exceeding eleven and one half consecutive hours during a total of not more than seven days in any calendar year of which six shall be six-week days with a period of four weeks immediately preceding Christmas, and the seventh the Saturday immediately preceding Easter, except that in any place of employment where the principal source of income of certain employees is in tips or gratuities, upon the written petition of not less than sixty per cent of such employees, the commissioner may allow such period of work to fall within a period not exceeding twelve consecutive hours; and in no case shall the hours of labor exceed forty-eight in a week, except that in manufacturing establishments or hotels where the employment is determined by the department to be by seasons, the number of such hours in any week may exceed forty-eight, but, except in the work of fish processing when necessary in

the judgment of the commissioner, and then only during the months of June, July, August, September and October, shall not exceed fifty-two, provided that the total number of such hours in any year shall not exceed an average of forty-eight hours a week for the whole year, excluding Sundays and holidays; and if any child or woman shall be employed or permitted to work in more than one such place, the total number of hours of such employment shall not exceed forty-eight hours in any one week.

The hours of labor of nonprofessional employees in a nursing convalescent home, or rest home, or charitable home for the aged shall not exceed forty-eight hours in any one week. This section shall not apply to any woman employed in a restaurant.

The commissioner may grant authority for office workers to exceed nine hours of labor in any one day; provided, that the hours of labor of such workers shall not exceed forty-eight in a week. Every employer, except those hereinafter designated, and except employers of persons in domestic service in the employer's home, shall post and keep posted in such manner as the commissioner may require in a conspicuous place in every room where such persons are employed a printed notice stating the number of hours' work required of them on each day of the week, the hours of beginning and stopping work, and the hours when the time allowed for meals begins and ends, or, in case of mercantile establishments and of establishments exempted from section one hundred, the time, if any, allowed for meals. The employment of any such person at any time other than as stated in said printed notice shall be deemed a violation of this section unless such employment was to make up time lost on a previous day of the same week by reason of the stopping, for not less than thirty consecutive minutes, of machinery upon which such person was employed or dependent for employment and unless a written report of the date, hour and duration of the stopping of such machinery is sent to the department within forty-eight hours of its occurrence; nor shall such overtime employment be authorized because of the stopping of machinery for the celebration of any holiday. Every employer engaged in furnishing public service, or in any other kind of business in respect to which the department shall find that public necessity or convenience requires the employment of children or women by shifts during different periods or parts of the day shall post and keep posted in such manner as the commissioner may require in a conspicuous place in every room where such persons are employed a printed notice stating separately the hours of employment for each shift or tour of duty and the amount of time allowed for meals. A list by name of the employees, stating in which shift each is employed, shall be kept on file at each place of employment for inspection of employees and by officers charged with the enforcement of this law. In cases of extraordinary emergency or extraordinary public requirement, this section shall not apply to employers engaged in public service or in other kinds of business in which shifts may be required as hereinbefore stated; but no such emergency or public requirement shall justify a variance from the preceding requirements of this section until a written report of the day and hours of its occurrence and its duration is sent to the department. This section shall not apply to persons who are declared by the Commissioner to be employed in a professional, executive, administrative or supervisory capacity or as personal secretaries. The commissioner may grant authority for employees of hospitals to be employed for more than nine hours in one day and forty-eight hours in one week and outside of a period of ten consecutive hours, or for employees of nursing or convalescent homes, rest homes and charitable homes for the aged to be employed for more than forty-eight hours in one week, if he finds that an emergency exists.

Notwithstanding any other provisions of this chapter, no minor under fourteen shall be employed in service on a farm for a total of more than four hours in any one day nor more than a total of twenty-four hours in any one week, except

that the provisions of this paragraph shall not apply to the employment of a minor under fourteen who is related by blood or marriage to the owner or operator of the farm on which such minor is employed.

* SECTION 57. A parent or guardian who permits a child under his control to be employed in violation of the preceding section, and any person who, either for himself or as superintendent, overseer or agent for another, employs any person in violation of said section, or fails to post or keep posted any notice as required by it, or makes a false report of the stopping of machinery, shall be punished by a fine of not less than fifty nor more than one hundred dollars.

* SECTION 58. Any law restricting the hours of women and minors laboring in factories or workshops, or in mercantile, manufacturing or mechanical establishments, shall, unless it is otherwise expressly provided, apply to women and minors operating elevators in such establishments, or in any building occupied in whole or in part by any such establishment, or in any office building.

Section fifty-nine of chapter one hundred and forty-nine of the General Laws is hereby repealed (chapter 371 of the Acts of 1974).

SECTION 60. No person shall employ a child under sixteen years of age, or permit him to work in, or about or in connection with any factory, workshop, manufacturing or mechanical establishment at any time.

Except as provided in sections sixty-nine and eighty-six, no person shall employ a child under sixteen years of age, or permit him to work in, about or in connection with any mercantile establishment, barber shop, bootblack stand or establishment, stable elsewhere than on a farm, garage, brick or lumber yard, telephone exchange, telegraph or messenger office, place of amusement, or in the construction or repair of buildings, or in any radio broadcasting station except as talent. Except as provided in section sixty-nine and eighty-six, no such child shall be employed at work performed for wage or other compensation, to whomever payable, during the hours when public schools are in session, nor, except as provided in section sixty-nine, and except that such child may be employed as a golf caddie during daylight hours, shall he be employed at work before half past six o'clock in the morning or after six o'clock in the evening.

This section and section eighty-six shall not be deemed to prohibit children under sixteen from taking part on the stage for a limited period in a play or musical comedy in a theatre where not more than two performances are given in any one day and not more than eight performances are given in any one week if the commissioner, after being satisfied that the supervision of such children is adequate, that their living conditions are healthful, and that their education is not neglected, gives his written consent to such taking part.

This section shall not prevent participation of a child under fifteen years of age in a fashion show, provided such child is accompanied by either one of his parents.

This section and section eighty-six shall not be deemed to prohibit children from fourteen to sixteen years of age from voluntarily performing services in a nonprofit hospital after regular school hours, but not after eight o'clock post meridian.

SECTION 61. No person shall employ a minor under sixteen or permit him to work in operating or assisting in operating any of the following machines: (1) Circular or band saws or ensilage cutters, which shall include any such saw or cutter on a farm, except with respect to a minor under sixteen who is related by blood or marriage to the owner or operator of the farm on which such minor is employed or permitted to work, (2) wood shapers, (3) wood jointers, (4) planers, (5) picker machines or machines used in picking wool, cotton, hair or other material, (6) paper lace machines, (7) leather burnishing machines, (8) job or cylinder printing presses operated by power other than foot power, (9) stamping machines used in sheet metal and tinware or in paper or leather manufacturing or

• Does not apply to professional personnel in hospitals. See Acts of 1941, Chap. 610, Sec. 2

in washer and nut factories, (10) metal or paper cutting machines, (11) corner staying machines in paper box factories, (12) corrugating rolls such as are used in corrugated paper or in roofing or washboard factories, (13) steam boilers, (14) dough brakes or cracker machinery of any description, (15) wire or iron straightening or drawing machinery, (16) rolling mill machinery, (17) power punches or shears, (18) washing or grinding or mixing machinery, (19) calendar rolls in paper and rubber manufacturing or other heavy rolls driven by power, (20) laundering machinery, (21) upon or in connection with any dangerous electrical machinery or appliances; or in adjusting or assisting in adjusting any hazardous belt to any machinery, or in oiling or cleaning hazardous machinery, or in proximity to any hazardous or unguarded belts, machinery or gearing while such machinery or gearing is in motion; or in scaffolding; or in heavy work in the building trades; or in stripping, assorting, manufacturing or packing tobacco; or in any tunnel; or in a public bowling alley; or in a pool or billiard room; or in any capacity on moving motor vehicles.

SECTION 62. No person shall employ a minor under eighteen or permit him to work: (1) in or about blast furnaces; (2) in the operation or management of hoisting machines; (3) in oiling or cleaning hazardous machinery in motion; (4) in the operation or use of any polishing or buffing wheel; (5) at switch tending; (6) at gate tending; (7) at track repairing; (8) as a brakeman, fireman, engineer, motorman, or conductor upon a railroad or railway; (9) as a fireman or engineer upon any boat or vessel; (10) in operating motor vehicles of any description; (11) in or about establishments wherein gunpowder, nitroglycerine, dynamite or other high or dangerous explosive is manufactured or compounded; (12) in the manufacturing of white or yellow phosphorous or phosphorous matches; (13) in any distillery; brewery, or any other establishment where alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, are manufactured, packed, wrapped, or bottled; (14) in that part of any hotel, theatre, concert hall, place of amusement or other establishment where intoxicating liquors are sold; (15) in any room or other subdivision of a building at a height of more than 30 feet above the floor of such room or other subdivision or in any other place at a height of more than 30 feet above the ground level or water level, as the case may be; in the operation or management of any type of elevator other than a self-service elevator, as defined in the regulations of the board of elevator regulations and duly filed with the office of the state secretary, or in the cleaning or repairing of any type of elevator. This section shall not prohibit the employment of minors in drug stores or retail food stores, nor shall it prevent the employment of a minor, to whom has been issued a license to operate motor vehicles, in the operation on a farm, or on a way for a distance not exceeding ten miles therefrom, of any truck, tractor, trailer or self-propelled agricultural instrument registered by a farmer under chapter ninety.

SECTION 62A. The provisions of sections sixty-one and sixty-two prohibiting the employment of certain minors shall not prohibit the employment of minors fourteen years of age and older to operate, or to assist in the operation of, small power equipment of the kind utilized by home gardeners, and the provisions of section sixty-two shall not prohibit the employment of minors sixteen years of age or older in agricultural occupations; provided, that such minors are enrolled in a course of study and training in a cooperative agricultural vocational training program under a recognized state or local authority; and provided, further, that such minors are employed under written agreements that the work of such minors shall be incidental to their training, that such work shall be intermittent and for short periods of time, shall be under the direct and close supervision of a qualified and experienced person and that safety instruction given in any such course shall be correlated by the employer with on-the-job training. The provisions of sections sixty-one and sixty-two prohibiting the employment of certain minors shall not prohibit the employment of minors who are graduates of trade or vocational high schools provided that such minors are employed in the same occupation as they were trained for in such trade or vocational school.

SECTION 63. The department may, after a hearing duly held, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of minors under the age of sixteen or eighteen is not forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous or is sufficiently injurious to the health or morals of minors under sixteen or eighteen to justify their exclusion therefrom. No minor under sixteen or eighteen shall be employed or permitted to work in any trade, process or occupation thus determined to be dangerous or injurious to such minors, respectively.

SECTION 64. No person shall employ a minor or permit him to work in, about or in connection with any saloon or bar room where alcoholic liquors are sold. No person shall knowingly take or send any such minor or cause or permit him to be sent to any disorderly house or house of prostitution or assignation or other immoral place of resort or amusement.

SECTION 65. No person shall employ a minor under sixteen, or permit him to work, in any occupation for which a permit for employment is required, for more than six days in any one week, or more than forty-eight hours, in any one week, or more than eight hours in any one day, or, except as provided in section sixty-nine, before half-past six o'clock in the morning, or after six o'clock in the evening. If the work performed by any such minor in a day is not continuous, but is divided into two or more periods, the person employing such minor shall so arrange such minor's work that all such periods of work shall fall within a period of nine consecutive hours. The time spent by such a minor in a continuation school or course of instruction as required by section twenty-two of chapter seventy-one shall be reckoned as a part of the time he is permitted to work.

SECTION 66. No person shall employ a boy or a girl under eighteen or permit such boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty before six o'clock in the morning, or after ten o'clock in the evening; provided, that boys or girls under eighteen may be employed as operators in regular service telephone exchanges or telegraph offices until, but not after, eleven o'clock in the evening; and provided further, that boys or girls between the ages of sixteen and eighteen may be employed in restaurants until, but not after, twelve o'clock in the evening on Fridays and Saturdays and during school vacation periods, excepting the last day of such vacation period.

SECTION 67. Except as limited by section fifty-six, no person shall employ a boy under eighteen or a girl under twenty-one or permit such a boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty for more than six days in a week, or more than forty-eight hours in a week, or more than nine hours in a day, and, if the work performed by such boy or girl in a day is not continuous, but is divided into two or more periods, the person employing such boy or girl shall so arrange his or her work that all such periods shall fall within a period of ten consecutive hours.

SECTION 68. Except for the delivery of messages directly connected with the business of conducting or publishing a newspaper to a newspaper office or directly between newspaper offices, no person shall employ a minor or permit him to work as a messenger for a telegraph, telephone or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening.

SECTION 69. No boy or girl under twelve shall sell, expose or offer for sale any newspapers, magazines, periodicals or any other articles of merchandise of any description, or exercise the trade of bootblack or scavenger, or any other trade, in any street or public place.

A boy or girl over twelve may engage or be employed in any city or town in the sale or delivery of newspapers, magazines or other periodicals in a street or on a newspaper route; provided that no boy or girl under sixteen, except a child granted an employment permit by the superintendent of schools when such superintendent

determines that the welfare of such child will be better served through the granting of such permit, may so engage or be employed during the hours that the public schools of the city or town in which such boy or girl resides are in session nor before six o'clock in the morning nor after eight o'clock in the evening, nor unless such boy or girl has secured a badge from the officer authorized to issue permits for employment in the city or town where he resides to which badge sections seventy-one and seventy-two shall apply.

SECTION 70. No boy or girl under sixteen shall engage or be employed in any of the trades or occupations mentioned in section sixty-nine unless such boy or girl complies with all the provisions of sections seventy-one, seventy-two and seventy-three and with all the legal requirements concerning school attendance and unless a badge has been issued to such boy or girl by the officer authorized to issue employment permits in the city or town where such boy or girl resides. The charge, if any, for such a badge issued to such boy or girl engaged or employed in the sale of newspapers in a street shall be such sum, not more than twenty-five cents, as shall be determined by the officer issuing the same.

SECTION 71. Such badge shall not be issued until the officer issuing the same shall have received, examined, approved and filed evidence that such boy or girl is twelve or over, which shall consist of either a birth certificate, a baptismal certificate showing the date of birth or a certified copy of the official school record of the applicant showing his date of birth. Such officer may refuse to issue such badge to any boy or girl who in his opinion, after due investigation, is found physically or mentally incompetent or unable to do such work in addition to the regular school attendance required by law.

SECTION 72. The badge shall be worn, conspicuously exposed at all times, by such boy or girl while so working. No boy or girl to whom said badge has been issued shall transfer the same to any other boy or girl. Said boy or girl shall exhibit the same upon demand at any time to any officer mentioned in section seventy-seven. The school committee of any city may make further regulations and requirements for issuing such badges.

SECTION 73. No boy or girl under sixteen shall engage in any of the trades or occupations mentioned in section sixty-nine in any street or public place after eight o'clock in the evening or before six o'clock in the morning nor, except in the case of a boy or girl granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such boy or girl will be better served through the granting of such permit, during the hours when the public schools in the city or town where such boy or girl resides, or the school which such boy or girl attends, are in session.

SECTION 74. Except as provided in section fifty-six, every person employing any minor in any establishment mentioned in section sixty shall keep posted in a conspicuous place in the room where such minor is employed or permitted to work a printed notice stating the number of hours such minor is required or permitted to work on each day of the week, with the total for the week, the hours of commencing and stopping work, and the hours when the time allowed for meals begins and ends for each day of the week.

The employment of any minor at any time other than as stated in said printed notice shall be deemed a violation of this section. The terms of such notice for any week or part thereof shall not be changed after the beginning of labor on the first day of the week without the written consent of the commissioner.

SECTION 75. The department, after approval by the attorney general, shall, upon application furnish the printed forms of the lists and notices required by sections fifty-six and seventy-four to all persons required to post the same.

SECTION 76. Inspectors shall visit and inspect the places of employment mentioned in sections sixty to sixty-eight, inclusive, and shall ascertain whether any minors are employed therein contrary to said sections. They shall report to

the school authorities any cases of children under sixteen discharged for illegal employment. Any person may prosecute violations of sections sixty to seventy-four, inclusive.

SECTION 77. Sections sixty-nine to seventy-three, inclusive, relating to minors engaged in the occupations mentioned in section sixty-nine, shall be enforced by supervisors of attendance, who are hereby vested with full police powers for the purpose, and by police officers. The school committee of each city may appoint or designate one or more special supervisors of attendance to have supervision over minors engaged in such occupations and over the enforcement of said sections.

SECTION 78. Whoever, by himself or for others, or through agents, servants or foremen, employs, induces or permits any minor to work contrary to any provision of sections sixty to seventy-four, inclusive, shall be punished for a first offence by a fine of not less than ten or more than fifty dollars or by imprisonment for not more than one month, or both, and for a subsequent offence by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than two months, or both. The employment of any minor in violation of any provision of said sections, after the person employing such minor has been notified thereof in writing by any authorized inspector or supervisor of attendance shall constitute a separate offence for every day during which the employment continues. Violations of sections sixty to seventy-four, inclusive, or of section one hundred and four shall be reported by the department to the department of industrial accidents.

SECTION 79. Any person who hinders or delays any authorized inspector or supervisor of attendance in the performance of his duties, or who refuses to admit to or locks out any such inspector or supervisor from any place which such inspector or authorized representative of the department or supervisor is authorized to inspect, or who refuses to give such inspector or other authorized representative of the department or supervisor such information as may be required for the proper enforcement of the provisions of, or any rule or regulation adopted under this chapter shall be punished by a fine of not less than twenty-five nor more than two hundred dollars or by imprisonment for not more than two months, or both.

SECTION 80. Whoever furnishes or sells to any minor any articles of any description with the knowledge that the minor intends to sell such articles in violation of any provision of sections sixty-nine to seventy-three, inclusive, or after having received written notice to this effect from any officer charged with the enforcement thereof, or knowingly procures or encourages any minor to violate any provisions of said sections, shall be punished by a fine of not less than ten nor more than two hundred dollars or by imprisonment for not more than two months, or both.

SECTION 81. Any parent, guardian, or custodian having a minor under his control who compels or permits such minor to work in violation of any provisions of sections sixty to seventy-four, inclusive, or knowingly certifies to any materially false statement for the purpose of obtaining the illegal employment of such minor, shall for a first offence be punished by a fine of not less than two nor more than ten dollars or by imprisonment for not more than five days, or both; and for a subsequent offence by a fine of not less than five nor more than twenty-five dollars or by imprisonment for not more than ten days, or both.

SECTION 82. Any inspector, supervisor of attendance, superintendent of schools or other person authorized to issue the badges required by section seventy, or any other person charged with the enforcement of any of the provisions of sections sixty to eighty-three, inclusive, who knowingly violates or fails to comply with any provision of said sections, shall be punished by a fine of

not less than ten nor more than two hundred dollars or by imprisonment for not more than two months, or both.

SECTION 83. Any minor who engages in any of the trades or occupations mentioned in section sixty-nine in violation of any provision of sections sixty-nine, seventy or seventy-two to seventy-four, inclusive, shall for the first offence be warned by the supervisors or officers mentioned in section seventy-seven, and the parent, guardian or custodian shall be notified. In case of a second violation, such minor may be arrested and dealt with as a delinquent child, or, if over seventeen, shall be punished by a fine not exceeding fifteen dollars. Upon the recommendation of the principal or chief executive officer of the school which such minor attends, or upon the complaint of any supervisor of attendance, police officer or probation officer, the badge of any minor violating any provision of sections seventy to seventy-three, inclusive, or who becomes delinquent or fails to comply with all legal requirements concerning school attendance, may be revoked for three months by the officer issuing the same and the badge taken from such minor. If any minor refuses to surrender such badge, or works at any of the occupations mentioned in section sixty-nine after notice of the revocation of such badge, he shall be deemed to have violated section seventy.

SECTION 84. A summons or warrant issued by any court or trial justice having jurisdiction of the violation of any provision of sections sixty to eighty-three, inclusive, or sections ninety to ninety-seven, inclusive, may be served at the direction of the court or justice by an inspector or by a supervisor of attendance or by an officer qualified to serve criminal process.

SECTION 85. Sections sixty to eighty-three, inclusive, shall not apply to the juvenile reformatories, other than the Massachusetts reformatory, or prevent minors of any age from receiving manual training or industrial education in or in connection with any school committee or by the department of education.

SECTION 86. No person shall employ a child under sixteen years of age, other than a child over fourteen granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, or permit him to work in, about or in connection with any mercantile establishment or in any employment mentioned in section sixty, or as defined in section one, other than street trades as defined in sections sixty-nine to seventy-three, inclusive; provided, that pupils over fourteen in co-operative courses in public schools may be employed by any co-operating mercantile establishment or other co-operating employment as defined by section one upon securing from the superintendent of schools a permit covering any such co-operating employment; and provided, further, that no permit shall be issued to any child under sixteen to work in, about or in connection with any manufacturing or mechanical establishment, factory or workshop. Children between fourteen and sixteen who possess the educational qualifications set forth in section one of chapter seventy-six and are employed in private domestic service or service on farms shall be required to secure a permit issued by the superintendent of schools covering such employment. The person employing a child between fourteen and sixteen shall procure and keep on file, accessible to the supervisors of attendance of the town, to agents of the department of education, and to the department of labor and industries or its authorized agents or inspectors, the permit for employment issued to such child and shall keep a complete list of the names and ages of all children so employed.

On termination of the employment of a child whose permit for employment is on file said permit shall be returned by the employer within two days after said termination to the office of the superintendent of schools or school committee from which it was issued. Any person who retains a permit for employment contrary to this section shall be punished by a fine of not less than ten dollars nor

more than one hundred dollars.

SECTION 87. An employment permit shall be issued only by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized in writing by the school committee of the town where the child to whom it is issued resides during his employment, or, if the child resides outside the commonwealth of the town where the child is to be employed; provided, that no member of a school committee or other person authorized as aforesaid shall have authority to issue such permit for any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer, or employee. If an employment permit is issued to a child under sixteen authorizing employment in a town other than that of his residence, a duplicate thereof shall be sent forthwith to the superintendent of schools of the town where the employment is authorized.

The person issuing an employment permit shall, before issuing it, receive, examine, approve and file the following papers, duly executed:

(1) A pledge or promise, signed by the employer or by an authorized manager or superintendent, setting forth the character of the specific employment, the number of hours per day during which the child is to be regularly employed, and the name and address of the employer, in which pledge or promise the employer agrees to employ the child in accordance with this chapter, and to return the employment permit as provided in section eighty-six.

(2) The school record of such child, filled out and signed as provided in section eighty-eight, except when such record may be waived thereunder.

(3) A certificate, signed by a school or family physician, or by a physician appointed by the school committee, stating that the child has been thoroughly examined by said physician, and in his opinion is in sufficiently sound health and physically able to perform the work which the child intends to do.

(4) Evidence of age, showing that the child is of age required for the issuance of the permit, which shall consist of one of the following proofs of age:

(a) A birth certificate, or a duly attested transcript thereof, made by a registrar of vital statistics or other officer charged with the duty of recording births.

(b) A baptismal certificate, or a duly attested transcript thereof, showing the age and date of baptism of the child.

(c) If none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment permits may accept in lieu thereof a passport or a duly attested immigration record, or transcript thereof, showing the age of the child, or other official or religious record of the child's age; provided, that it shall appear to the satisfaction of said person that the same is good and sufficient evidence of the child's age.

(d) If none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment permits may accept in lieu thereof a record of age as given on the register of the school which the child first attended in the commonwealth; provided, that such record was kept for at least two years during the time when such child attended school.

(e) If none of the aforesaid proofs of age is obtainable, and only in such case, the person issuing employment permits may receive the signed statement of the school physician, or of the physician appointed by the school committee, stating that after examination it is the opinion of such physician that the child is at least of the age required for the issuance of the permit. Such physician's statement shall be accompanied by a statement signed by the child's parent, guardian or custodian, or, if such child has no parent, guardian or custodian, by the signed statement of the next adult friend. Such signed statement shall contain the name, date and place of birth and residence of the child, and shall certify that the parent,

guardian, custodian or next friend signing it is unable to produce any of the proofs of age specified in this section. Such statement shall be so signed in the presence of the person issuing the employment permit. The person issuing employment permits may, before issuing such a permit, require the parent, guardian, custodian, or next adult friend of the child to appear and approve in writing the issuance of such permit.

A certificate relating to the age or place of birth of any child or to any other fact sought to be established in relation to school attendance shall be issued, upon request, by a town clerk, and no fee shall be charged therefor by a town clerk or other official. The superintendent of schools or a person authorized by him in writing may revoke for cause the permit for employment of any child employed in private domestic service, if not in the employ of a member of his immediate family, or service as a farm laborer in the employ of any person other than his parent or legal guardian. Whenever such a permit authorizing employment of a child elsewhere than in his place of residence is held by him the superintendent of schools of the town of his employment shall forthwith notify the superintendent of schools issuing the permit for the child's failure to comply with any pertinent provision of law.

No superintendent of schools, school committee or other person authorized to receive, examine, approve and file such evidence of age, shall retain against the will of such child, his parent or guardian, such evidence of age, for a longer time than is reasonably necessary for making a copy, photostat or reasonable facsimile thereof, which shall be filed in place of the original and the original shall be returned to such child, his parent or guardian.

SECTION 88. The school record required by section eighty-seven shall be filled out and signed by the principal or teacher in charge of the school which the child last attended, and shall be furnished only to a child who, after due examination and investigation is found to be entitled thereto. Said school record shall state the grade last completed by such child and the studies pursued in completion thereof. It shall state the number of days during which such child has attended school during the twelve months next preceding the time of application for said school record. It shall also give the name, date of birth, and the residence of the child as shown on the records of the school and the name of the parent, guardian or custodian. If the school record is not obtainable from the principal or teacher in charge of the school which such child last attended, the requirement of a school record may be waived.

No such school record shall be issued or accepted and no employment permit granted unless the child possesses the educational qualifications described in section one of chapter seventy-six; provided, that a child over fourteen who does not possess such qualifications may be granted a limited employment permit good only during hours when the school is not in session.

No such school record shall be issued or accepted unless the child has regularly attended the public or other lawfully approved schools for not less than one hundred and thirty days before becoming thirteen; provided, that the school record may be accepted in the case of a person who has been an attendant at a public day or other lawfully approved school for a period of not less than seven years, if in the opinion of the superintendent of schools such person is mentally incapable of acquiring the educational qualifications herein prescribed; and provided, further, that the superintendent may suspend this requirement in any case when in his opinion the interests of the child will be best served thereby.

SECTION 89. The employment permit required under this chapter shall state the name, sex, date and place of birth and the place of residence of the child, and describe the color of his hair and eyes and any distinguishing facial marks. It shall certify that the child named in such certificate has personally appeared before the person issuing the certificate and has been examined, and except in the case of a limited permit, found to possess the educational qualifications described

in section one of chapter seventy-six, and that all the papers required by section eighty-seven have been duly examined, approved and filed and that all the conditions and requirements for issuing an employment permit have been fulfilled. It shall state the grade last completed by said child. Every such permit shall be signed in the presence of the person issuing the same by the child in whose name it is issued. It shall state the name of the employer for whom, and the nature of the employment in which, the permit authorizes the child to be employed. It shall bear a number, show the date of its issue and be signed by the person issuing it. No fees shall be exacted by a town clerk or other official for an employment permit or for any paper required by sections eighty-seven to ninety-five, inclusive. No duplicate employment permit shall be issued until it shall appear to the satisfaction of the person authorized to issue permits that the original has been lost. A record giving all the facts contained on every employment permit issued shall be filed in the office issuing the same, together with the papers required by section eighty-seven. A record shall also be kept of the names and addresses of all children to whom permits have been refused, together with the names of the schools which said children should attend and the reasons for refusal. All the aforesaid records and papers shall be preserved until such children, if living, have become sixteen. Such records and statistics concerning the issuance of employment permits as may be prescribed by the department of education shall be kept, and shall be open to the inspection of said department, its officers or agents. The blank permits and other papers required in connection with the issuing of employment permits and educational certificates under this chapter shall be furnished to the local school committees by the department of labor and industries, by which they shall be prepared after conference with the department of education and the approval of the forms thereof by the attorney general. Said permits and papers may bear explanatory matter necessary to facilitate the enforcement of this chapter or to comply with future legislative requirements.

SECTION 90. Whoever employs a child under sixteen, or whoever procures, or having under his control a child under sixteen, permits him to be employed in violation of section eighty-six, shall be punished by a fine of not less than ten nor more than fifty dollars or by imprisonment for not more than one month; and whoever continues to employ a child under sixteen in violation of said section, after being notified thereof by a supervisor of attendance or by an inspector, shall for every day thereafter while such employment continues be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than two months; and whoever forges, or procures to be forged, or assists in forging a certificate of birth or other evidence of the age of such child, and whoever presents or assists in presenting a forged certificate or evidence of birth to the superintendent of schools or to a person authorized by law to issue permits, for the purpose of fraudulently obtaining the employment permit required by section eighty-six, shall be punished by a fine of not less than ten nor more than five hundred dollars or by imprisonment for not more than one year, or both. Whoever, being authorized to sign an employment permit, knowingly certifies to any materially false statement therein shall be punished by a fine of not less than ten nor more than two hundred dollars. Whoever, without authority, alters an employment permit after the same is issued shall be punished by a fine of ten dollars.

SECTION 91. The employer of any minor between fourteen and sixteen who is required by section twenty-two of chapter seventy-one to attend a continuation school or course of instruction shall cease forthwith to employ such minor when notified in writing by the superintendent of schools, or by his representative duly authorized in writing, having jurisdiction over such minor's attendance, or his non-attendance in accordance with said section. An employer failing to comply with this section shall be punished by a fine of not less than ten nor more than one hundred dollars.

SECTION 92. Supervisors of attendance may visit the factories, workshops, manufacturing, mechanical and mercantile establishments, theatres, and places of public exhibition in their several towns, and ascertain whether any children are employed therein contrary to this chapter, and shall report in writing any cases of such illegal employment to the superintendent of schools or the school committee and to the department or its authorized officers or agents. Inspectors shall visit all factories, workshops, manufacturing, mechanical and mercantile establishments within their respective districts, and ascertain whether any children are employed therein contrary to this chapter, and shall enter complaint against whoever is found to have violated any of its provisions. No inspector shall knowingly or willfully violate any provision of this section.

SECTION 93. A supervisor of attendance shall apprehend and take to school without a warrant, any minor employed in any factory, workshop, manufacturing, mechanical or mercantile establishment, or in any theatre or place of public exhibition contrary to this chapter; and such supervisor of attendance shall forthwith report to the district court or trial justice within whose judicial district the illegal employment occurs the evidence in his possession relating to the illegal employment of any minor so apprehended, and shall make complaint against whoever the court or trial justice may direct. No supervisor of attendance shall knowingly or willfully violate any provision of this section.

SECTION 94. Supervisors of attendance, agents of the department of education or of the department of labor and industries, or any authorized agent or inspector of either of said departments may require that the permit for employment or educational certificate and lists of minors employed in any establishment or occupation for which permits for employment or educational certificates are required shall be produced for their inspection. A failure so to do upon request shall be prima facie evidence of the illegal employment of any minor whose permit for employment or educational certificate is not produced or whose name is not so listed.

SECTION 95. No minor over sixteen and under eighteen shall be employed in a factory, workshop, manufacturing, mechanical or mercantile establishment, or in a public or private bowling alley, pool or billiard room, bootblack stand or establishment, barber shop, or in the construction or repair of buildings, or by an express or transportation company, except as provided for pupils in cooperative courses, unless his employer procures and keeps on file an educational certificate showing the age of the minor and whether or not he meets the requirements for the completion of the sixth grade of the public schools of the town where he resides. Such certificates shall be issued by the person authorized by section eighty-seven to issue employment permits. The person authorized to issue such educational certificates shall, so far as practicable, require the proof of age stated in said section. He shall examine the minor and certify whether or not he meets the requirements for the completion of the sixth grade as aforesaid. Every such certificate shall be signed, in the presence of the person issuing it, by the minor in whose name it is issued.

Every employer of such minors shall keep their educational certificates accessible to any officer mentioned in section ninety-two and shall return said certificates to the office from which they were issued within two days after the date of the termination of the employment of said minors. If the educational certificate of any minor over sixteen and under eighteen fails to show that said minor meets the requirements for the completion of the sixth grade as aforesaid, no person shall employ such minor while a public evening school is maintained in the town where the minor resides or in the town of employment if he is authorized to attend a public evening school therein, unless such minor is a regular attendant at such evening school or at a day school and presents to his employer each week a school record of such attendance. When such record shows unexcused absences, such attendance shall be deemed to be irregular and insufficient. The person authorized to issue educational certificates, or teachers acting under his

authority, may, however, excuse justifiable absence or waive the school attendance requirements of this section if in the opinion of the school physician the physical or mental condition of a minor is such as to render attendance harmful or impracticable. Whoever retains an educational certificate contrary to this section or fraudulently secures or alters such certificate shall be punished by a fine of not less than ten nor more than one hundred dollars.

SECTION 95A. A school committee of any city, town or regional school district which accepts the provisions of this section may permit a minor over sixteen and under eighteen who is attending school to be employed in industry without the certificate required by section ninety-five; provided, however, that such minor is part of a co-operative work-study program operated by said school committee and approved by the department of education. Said minor, while so employed, shall be subject to the provisions of chapter one hundred and fifty-two.

SECTION 96. Sections eighty-six to ninety-five, inclusive, shall not prevent children of any age from receiving manual training or industrial education in or in connection with any school in the commonwealth duly approved by the local school committees or by the department of education.

SECTION 97. Whoever employs a minor in violation of section ninety-five shall be punished by a fine of not more than one hundred dollars.

SECTION 98. A parent, guardian or custodian who permits a minor to be employed in violation of section ninety-five shall be punished by a fine of not more than twenty dollars. Fines imposed under this and the preceding section shall enure to the use of evening schools of the town where the violation occurs.

Section ninety-nine of chapter one hundred and forty-nine of the General Laws is hereby repealed (chapter 372 of the Acts of 1974).

SECTION 100. No person shall be required to work for more than six hours during a calendar day without an interval of at least thirty minutes for a meal. Any employer, superintendent, overseer or agent who violates this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

SECTION 101. The preceding section shall not apply to iron works, glass works, paper mills, letterpress establishments, print works, bleaching works, or dyeing works; and the commissioner, if it is proved to his satisfaction that in any other factories or workshops or mechanical establishments it is necessary, by reason of the continuous nature of the processes or of special circumstances affecting such establishments, including collective bargaining agreements to exempt them from the preceding section and that such exemption can be made without injury to the persons affected thereby, may grant such exemption as, in his discretion, seems necessary.

* SECTION 102. If a minor or a woman shall, without the orders, consent or knowledge of the employer or of the superintendent, overseer or other agent of the employer, labor in a manufacturing or mechanical establishment, factory or workshop during a part of any time allowed for meals in such establishment, factory or workshop, according to the notice required by section fifty-six, and if a copy of such notice is posted in a conspicuous place in the room where such labor was performed, with a rule of the establishment, factory or workshop forbidding such minor or woman to labor during such time, neither the employer nor the superintendent, overseer or other agent of the employer shall be held responsible for such labor.

SECTION 103. Employers shall provide suitable seats for the use of their employees and shall permit such employees to use such seats whenever they are not necessarily engaged in the active duties of their employment, and shall also provide for their use and permit them to use suitable seats while at work, except when the work cannot properly be performed in a sitting position or when such seats may reasonably be expected to result in an unsafe or hazardous working condition. Whoever violates this section shall be punished by a fine of not less than ten nor more than thirty dollars.

SECTION 104. No person shall employ a child under fifteen years of age, or permit him to appear as a participant in a theater, circus or any other public exhibition as a singer, dancer, acrobat, actor or in any other entertainment capacity; but this section shall not prevent the education of children in vocal and instrumental music or dancing or their participation in any exhibition of dancing conducted as a part of its graduation exercises by a school furnishing them instruction in dancing, or their participation in a church, chapel, school or school exhibition, or prevent their taking part in any festival, concert or other non-commercial exhibition upon the special written permission of the local licensing authority; nor shall it prevent children under fifteen from taking part on the stage for a limited period in a play or musical comedy in a theater wherein not more than two performances are given in any one day and not more than eight performances are given in any one week if the commissioner, after being satisfied that the supervision of such children is adequate, that their living conditions are healthful and that their education is not neglected, gives his written permission to such taking part. Whoever violates this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

This section shall not prevent participation of a child under fifteen years of age in a fashion show, provided such child is accompanied by either one of his parents.

SECTION 105. A license shall not be granted for a theatrical exhibition or public show in which children under fifteen are employed as acrobats or contortionists or in any feats of gymnastics or equestrianism, or in which such children attending the public schools are employed or allowed to take part as performers on the stage in any capacity, or if, in the opinion of the board authorized to grant licenses, such children are employed in such manner as to corrupt their morals or impair their health; but this section shall not prevent granting the special permission authorized by the preceding section.

SECTION 105A. No employer shall discriminate in any way in the payment of wages as between the sexes, or pay any female in his employ salary or wage rates less than the rates paid to male employees for work of like or comparable character or work on like or comparable operations, provided, however, that variations in rates of pay shall not be prohibited when based upon a difference in seniority. Any employer who violates any provision of this section shall be liable to the employee or employees affected in the amount of their unpaid wages, and in an additional equal amount of liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated and any agreement between the employer and any such employee to work for less than the wage to which such employee is entitled under this section shall be no defence to such action. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and the costs of the action. At the request of any employee paid less than the wage to which he is entitled under this

section, the commissioner may take an assignment of such wage claim in trust for the assigning employee and may bring legal action necessary to collect such claim, and the employer shall be required to pay an additional equal amount of liquidated damages, together with the costs of the action and such reasonable attorney's fees as may be allowed by the court. The commissioner shall not be required to pay any filing fee, or other costs, in connection with such action. The commissioner may join various claimants against the employer in one cause of action. Any action based upon or arising under sections one hundred and five A to one hundred and five C, inclusive, shall be instituted within one year after the date of the alleged violation.

SECTION 105B. Any employer who violates any provision of sections one hundred and five A to one hundred and five C, inclusive, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, the commissioner, or any other person, instituted, or caused to be instituted, any proceeding under or related to said sections, or has testified or is about to testify in any such proceedings, shall upon conviction thereof, be punished by a fine of not more than one hundred dollars.

SECTION 105C. For the purpose of enforcing the provisions of sections one hundred and five A to one hundred and five C, inclusive, the commissioner, or his authorized representative, may enter places of employment, other than places of employment of persons engaged in domestic service in the home of the employer, may inspect payrolls, may compare character of work and operations on which employees are engaged, may question employees, and may take such other action as is reasonably necessary to determining compliance therewith.

SECTION 105D. A female employee who has completed the initial probationary period set by the terms of her employment or, if there is no such probationary period, has been employed by the same employer for at least three consecutive months as a full-time employee, who is absent from such employment for a period not exceeding eight weeks for the purpose of giving birth, said period to be hereinafter called maternity leave, and who shall give at least two weeks' notice to her employer of her anticipated date of departure and intention to return, shall be restored to her previous, or a similar, position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of her leave. Said maternity leave may be with or without pay at the discretion of the employer.

Such employer shall not be required to restore an employee on maternity leave to her previous or a similar position if other employees of equal length of service credit and status in the same or similar position have been laid off due to economic conditions or other changed in operating conditions affecting employment during the period of such maternity leave; provided, however, that such employee on maternity leave shall retain any preferential consideration for another position to which she may be entitled as of the date of her leave.

Such maternity leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, and any other advantages or rights of her employment incident to her employment position; provided, however, that such maternity leave shall not be included, when applicable, in the computation of such benefits, rights, and advantages; and provided, further, that the employer need not provide for the cost of any benefits, plans, or programs during the period of maternity leave unless such employer so provides for all employees on leave of absence. Nothing in this section shall be construed to affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this section.

A notice of this provision shall be posted in every establishment in which females are employed.

For the purposes of this section, an "employer" shall be defined as in subsection 5 of section one of chapter one hundred and fifty-one B.

Section 2. Section 4 of chapter 151B of the General Laws is hereby amended by inserting after subsection 11 the following subsection: —

11A. For an employer, by himself or his agent, to refuse to restore certain female employees to employment following their absence by reason of a maternity leave taken in accordance with section one hundred and five D of chapter one hundred and forty-nine or to otherwise fail to comply with the provisions of said section.

PROVISIONS AS TO HEALTH AND SAFETY

SECTION 106. All industrial establishments and every person engaged in carrying on a construction project shall provide fresh and pure drinking water to which their employees shall have access during working hours. Any person owning, in whole or in part, managing, controlling or superintending any industrial establishment or construction project in which this section is violated shall, on the complaint of the local board of health, the selectmen of a town or an inspector, be punished by a fine of one hundred dollars. For the purposes of this section the term "industrial establishments" shall be deemed to include public garages and premises used by express, trucking and transportation companies where persons are employed.

SECTION 107. The water used for humidifying purposes by any person operating a factory or workshop shall be of such a degree of purity as not to give rise to any impure or foul odors, and shall be so used as not to be injurious to the health of persons employed in such factories or workshops. Whoever violates this section shall be punished by a fine of not less than ten nor more than one thousand dollars.

SECTION 108. In every weaving and spinning department in a textile factory wherein water is introduced for humidifying purposes there shall be provided, maintained and kept in correct working order, for the purpose of recording and regulating the humidity of the atmosphere and the temperature, at least one set of standardized wet and dry bulb thermometers, and, if required by an inspector, two sets of such thermometers, and the following regulations shall be observed in their use: (a) the thermometers shall be placed as directed or sanctioned by an inspector, and be plainly visible to the workers. (b) The occupier or manager or person for the time being in charge of the weaving or spinning department shall read the thermometers thrice in the day, namely, between seven and eight o'clock in the forenoon, between ten and eleven o'clock in the forenoon and between three and four o'clock, except in rooms lighted by gas, and then between four and five o'clock, in the afternoon of every day when persons are employed in any weaving or spinning department, and he shall record the readings of each thermometer in such department at each of the said times upon a form provided therefor, which, together with the regulations relating thereto, shall be furnished by the department of labor and industries. The records of the readings shall not be destroyed until the inspector in whose district the factory is situated has examined them and given his consent to their destruction.

SECTION 109. The preceding section shall not apply to textile factories equipped with such a number and type of standardized self-registering hygrometers, or psychrometers, or such hygrometric system as the department approves, or using the sling hygrometer frequently to determine the actual moisture and temperature of the weaving or spinning department; provided, that the manner of using all such instruments or such system is approved by the industrial health inspector in whose district the factory is situated, and that the records of the readings from said instruments or systems are not destroyed without the knowledge and consent of such inspector.

SECTION 110. No owner, occupier or manager or person for the time being in charge of a textile factory shall permit the relative humidity in a weaving or spinning department in the textile factory under his control to exceed the following limits:

I Dry Bulb Thermometer Readings Degrees Fahr.	II Wet Bulb Thermometer Readings Degrees Fahr.	III Percentage of Humidity	I Dry Bulb Thermometer Readings Degrees Fahr.	II Wet Bulb Thermometer Readings Degrees Fahr.	III Percentage of Humidity
60	58	88	78	73.5	77
61	59	88	79	74.5	77.5
62	60	88	80	75.5	77.5
63	61	88	81	76	76
64	62	88	82	76.5	74
65	63	88	83	77.5	74
66	64	88	84	78	72
67	65	88	85	79	72
68	66	88	86	80	72
69	67	88	87	80.5	71
70	68	88	88	81.5	71
71	68.5	85.5	89	82.5	71
72	69	84	90	83	69
73	70	84	91	83.5	68
74	70.5	81.5	92	84.5	68
75	71.5	81.5	93	85.5	68
76	72	79	94	86	66
77	73	79	95	87	66

SECTION 111. Water used for humidifying purposes in a textile factory shall be taken either from a public supply of drinking water, or from some other source of pure water, or from a supply of water which, although in the opinion of the department not suitable for drinking purposes, is sufficiently free from impurities to be not dangerous to the health of employees when used for humidifying purposes; and all ducts for the introduction or distribution of humidified air shall be kept clean.

SECTION 112. Whoever fails to comply with any provision of sections one hundred and eight to one hundred and eleven, inclusive, after being requested so to do by an inspector, shall be punished by a fine of not more than fifty dollars.

SECTION 113. Every factory, workshop, manufacturing, mechanical and mercantile establishment, railroad freight house, railway express terminal, public garages and premises used by express, trucking and transportation companies, and any other building in which a person is employed, other than a building under construction, shall be well lighted, well ventilated and kept free from unsanitary conditions, and work rooms therein in actual use shall be properly heated during the period from October fifteenth to May fifteenth, according to reasonable rules and regulations adopted by the department establishing minimum requirements with reference thereto; provided, however, that the provisions of this section shall not apply to such rooms which are under the supervision of the department of public health and are subject to the provisions of section seventy-three A of chapter ninety-four.

SECTION 114. The industrial health inspectors shall, when obtaining information concerning the proper lighting of industrial establishments, make such investigation concerning the eye and vision in their relation to occupational diseases, including injuries to the eyes of employees and to the pathological effects produced or promoted by the circumstances under which the various occupations are carried on, as in the opinion of the department is practicable, and it

shall from time to time issue such printed matter containing suggestions to employers and employees for the protection of the eyes of the employees as it may deem advisable.

SECTION 115. If it appears to an inspector that in any industrial establishment, from the nature of the work of the machinery used in connection therewith, or from other circumstances, there is danger of injury to the eyes of employees engaged in such work, and that the danger of injury may be decreased or prevented by any mechanical device or other practicable means, he shall, if the department so directs, order in writing that such device or other means shall be provided therein; and the proprietors and managers of the industrial establishment shall comply with the order. Violations of this section shall be punished by a fine of not less than five nor more than two hundred dollars for each week during which the violation continues, but a criminal prosecution for such violation shall not be begun unless a person has for four weeks after the receipt of a written order from an inspector neglected to comply therewith.

SECTION 116. Upon the request of any inspector of the division of inspection of the department of public safety or upon the request of any five employees in such a factory or workshop, the department shall investigate and ascertain whether or not such factory or workshop is adequately lighted. If the department is of opinion, after such investigation, that the factory or workshop is not properly lighted, it shall notify the owner or person in charge, and shall specify what changes should be made in order to light it properly, and the owner or lessee thereof shall make the changes so specified as soon as it can be done with reasonable diligence. If such owner or lessee fails to comply with any such order he shall be punished by a fine of not more than five hundred dollars, provided such failure is not the result of causes beyond his control.

SECTION 117. Every establishment in which one or more persons is employed shall be so ventilated that all gases, vapors, dust, fumes, or any impurity injurious to health, whether generated in the course of the work carried on therein or otherwise, shall, so far as practicable, be rendered harmless.

SECTION 118. If, in any place of employment, any process is carried on by which dust is caused which may be inhaled to an injurious extent by the persons employed therein, and it appears to an inspector that such inhalation would be substantially diminished without unreasonable expense by the use of a fan or by other mechanical means, such fan or other mechanical means, if he so directs, shall be provided, maintained and used.

SECTION 119. Any person operating a factory or workshop where emery wheels or belts or buffing wheels or belts injurious to the health of employees are used shall provide such wheels and belts with a hood or hopper connected with suction pipes, and with fans or blowers, in accordance with the following section, which apparatus shall be so placed and operated as to protect any person using such wheel or belt from the particles or dust produced by its operation, and to convey the particles or dust either outside of the building or to some receptacle so placed as to receive and confine them.

SECTION 120. Every such wheel shall be fitted with a hood or hopper of such form and so placed that the particles or dust produced by the operation of the wheel or of any belt connected therewith shall fall or will be thrown into such hood or hopper by centrifugal force; and the fans or blowers shall be of such size and shall be run at such speed as will produce a volume and velocity of air in the suction and discharge pipes sufficient to convey all particles or dust from the hood or hopper through the suction pipes and so outside of the building or to a receptacle as aforesaid. The hoods or hoppers shall be so constructed and the suction pipes and connections shall be suitable and efficacious and such as shall be approved by the department.

SECTION 121. The two preceding sections shall not apply to grinding

machines upon which water is used at the point of grinding contact, nor to solid emery wheels used in sawmills or in planning mills or in other woodworking establishments, nor to any emery wheel six inches or less in diameter used in establishments where the principal business is not emery wheel grinding.

SECTION 122. Violations of sections one hundred and seventeen to one hundred and twenty-one inclusive, shall be punished for the first offence by a fine of not less than twenty-five nor more than one hundred dollars, and for a subsequent offence by the fine aforesaid or by imprisonment in jail for not more than two months, or both. A criminal prosecution for the violation of section one hundred and seventeen or one hundred and eighteen shall not be begun unless an employer has for four weeks after the receipt of a written order from an inspector neglected to comply therewith.

SECTION 123. Inspectors, upon receipt of a notice signed by any person having knowledge of the facts that any factory or workshop subject to sections one hundred and nineteen and one hundred and twenty is not provided with the apparatus prescribed thereby, shall visit and inspect such factory or workshop, and for that purpose may enter therein during working hours; and if they ascertain that the owner, proprietor or manager thereof has failed to comply with said sections, they shall make complaint to a court or trial justice having jurisdiction, and cause such owner, proprietor or manager to be prosecuted.

SECTION 124. In every manufacturing establishment where the machinery is operated by steam, communication shall be provided between each room where such machinery is placed and the room where the engineer is stationed by means of speaking tubes, electric bells or appliances to control the motive power, or such other means as shall be satisfactory to an inspector, if in his opinion such communication is necessary.

SECTION 125. An occupant or manager of a manufacturing establishment who violates the preceding section shall forfeit to the commonwealth not less than twenty-five nor more than one hundred dollars. No prosecution for such violation shall be begun unless a person has for four weeks after the receipt of a written order from an inspector neglected to comply therewith.

SECTION 126. No inside or outside door of any building subject to the supervision of the department which, under the provisions of The State Building Code is required as a means of free egress or escape from fire, and no inside or outside door of any industrial establishment in which ten or more persons are employed which is marked "exit" or in any other manner designating the same as a means of egress or escape from fire shall, during business hours, be so locked, bolted or fastened that such door cannot be opened from the inside by the use of the ordinary doorknob, or by pressure on the door or on a panic release device, so called. No inside or outside door of any other building, other than a dwelling house, wherein any person is employed, which door shall have been determined by the department of public safety, upon the written request of the department, to be a means of such egress and escape shall, during business hours, be locked, bolted or fastened as aforesaid or obstructed in any manner which would not permit free egress. The owner, lessor or lessee, or any other person in charge of a building or portion thereof any door of which shall be found locked, bolted or otherwise fastened or obstructed in any manner which would not permit free egress. The owner, lessor or lessee, or any other person in charge of a building or portion thereof any door of which shall be found locked, bolted or otherwise fastened or obstructed in any manner which would not permit free egress, contrary to any provision of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year, or both.

SECTION 127. The belting, shafting, gearing, drums and all machinery having movable parts in all factories, workshops, mechanical and mercantile establishments, if so placed as to be dangerous to employees while engaged in

their ordinary duties, shall be securely guarded so far as practicable. Guards, dogs or other safety devices installed on belting, shafting, gearing, drums and all machinery having movable parts shall not be disconnected or removed, except when such belting, shafting, gearing, drums and all machinery having movable parts has been shut down for repairs. No machinery except steam engines in a factory, workshop, mechanical or mercantile establishment shall be cleaned while running.

SECTION 128. The owner, of a cotton factory erected after May twenty-eighth eighteen hundred and ninety-six, in which there is any traversing carriage of a self-acting mule installed, or of any cotton factory erected previously to such date in which thereafter such traversing carriage is installed, who permits such carriage to travel within twelve inches of any pillar, column, pier or fixed structure, shall be punished by a fine of not less than twenty nor more than fifty dollars.

SECTION 129. The openings of hoistways, hatchways and well holes upon every floor of an industrial establishment shall be protected by sufficient trap doors or self-closing hatches, or by such other safeguards as an inspector directs; and any such openings shall be kept so protected or so safeguarded at all times, except when in actual use, by the occupant of the building having the use and control of the same, or by the owner of the building having such control.

SECTION 129A. On any construction project carried on by a city, town, county or other subdivision of the commonwealth in which a trench is to be dug to a depth of five feet or more, except a trench for laying of water pipes dug to a depth of six and one-half feet which will be open for less than forty-eight hours, such trench shall be shored and braced in conformity with the rules and regulations for the prevention of accidents in construction operations, as adopted and enforced by the department. This section shall not apply to the digging of graves.

This section shall apply also to any project being carried on by any city, town, county, or other subdivision of the commonwealth.

SECTION 129B. Whoever, being engaged in construction work, requires or knowingly permits any person employed by him in such work to use certain devices, commonly called stilts, designed to be attached to the feet or legs of such employee for the purpose of elevating him to high placed or positioned work, shall be punished by a fine of not more than one hundred dollars for the first offense, by a fine of not more than five hundred dollars for the second offense, and by a fine of not more than one thousand dollars for any subsequent offense.

SECTION 129C. Whoever being engaged in the business of transmitting electricity or installing or repairing wires or electrical equipment knowingly permits a journeyman or first class lineman, while on a pole or structure, to work on live wires in excess of seven hundred and fifty volts to ground unless he is assisted on or at the base of each such pole or structure by a journeyman lineman, a fourth-year apprentice, a second class lineman or a lineman having a titled commonly accepted as the equivalent of the foregoing shall be punished by a fine of not more than one hundred dollars.

Each violation of this section shall be a separate offense.

This section shall not apply to work done by any person who is commonly called a troubleman, who would be employed in the performance of making emergency repairs, locating electrical faults, clearing defective apparatus and answering service calls

SECTION 130. Explosive or inflammable compounds or materials shall not be so stored or used in any place of employment as to obstruct or render hazardous the egress of employees in case of fire.

SECTION 131. Any person owning, managing or operating a factory where looms are used shall equip them with such guards or other devices as will prevent injury to employees from shuttles falling or being thrown from the looms. Such guards or devices shall be made of such material and be placed in such manner as shall be approved by the department. Whoever violates this section shall be punished by a fine of not more than one hundred dollars for every week during which the violation continues.

SECTION 132. No proprietor of a factory nor any officer or agent or other person shall require or permit the use of suction shuttles, or any form of shuttle in the use of which any part of the shuttle or any thread is put in the mouth or touched by the lips of the operator. Whoever violates this section shall be punished by a fine of not less than fifty dollars.

SECTION 133. In every industrial establishment and railroad establishment there shall be provided suitable, adequate and convenient water closets and washing facilities, separate for each sex and plainly so designated, of such number, in such location, and so constructed, lighted, ventilated, arranged and maintained as may be determined by such reasonable rules and regulations as the department may adopt. No person shall be allowed to use a closet or privy provided for the use of persons of the opposite sex. If any such establishment is located that a connection with a sewer system is, in the opinion of the department, impossible or impracticable, it shall provide such suitable toilet and washing facilities as the department may require. For the purposes of this section the term "industrial establishment" shall be deemed to include public garages and premises used by express, trucking and transportation companies where persons are employed. For the purposes of this section the term "railroad establishment" shall be deemed to mean that part, division or branch of any railroad in which three or more persons are employed except where toilet and washing facilities are maintained for public use.

The rules and regulations for toilets in industrial establishments, adopted by the department of labor and industries, shall be applicable to railroads on and after the effective date of this act.

Section one hundred and eighty-five A of chapter one hundred and sixty of the General Laws, inserted by chapter three hundred and thirty-three of the acts of nineteen hundred and forty-three, is hereby repealed.

SECTION 134. The owner, lessee or occupant of every such establishment shall make the changes necessary to conform thereto. If such changes are made upon the order of an inspector or by the occupant or lessee, he may, within thirty days after completion, bring an action against any other person having an interest in such premises, and may recover such proportion of the expense of making such changes as the court adjudges should justify and equitably be borne by the defendant.

SECTION 135. A criminal prosecution shall not be begun against a person for a violation of any provision of sections one hundred and thirty-three or one hundred and thirty-four unless he has, after receiving notice from the department of the changes necessary to comply with said sections, neglected to make such changes. A notice shall be sufficient under this section if given to one member of a firm, or to the clerk, cashier, secretary, agent or any other officer having charge of the business of a corporation, or to its attorney, or, in the case of a foreign corporation, to the officer or person having charge of any such industrial establishment or railroad establishment; and such officer or person shall be personally liable for the amount of any fine if a judgment against the corporation is unsatisfied.

SECTION 136. If it appears to an inspector that any act, neglect or fault in relation to any drain, water closet, earth closet, privy, ash pit, water supply, nuisance or other matter in any industrial establishment is punishable or remediable under any law relative to the preservation of the public health, but not

under this chapter, he shall give written notice thereof to the board of health of the town where such establishment is situated, and such board of health shall thereupon inquire into the subject of the notice and enforce the laws relative thereto.

SECTION 137. The proprietor of every foundry engaged in the casting of iron, brass, steel or other metal, and employing ten or more men, shall establish and maintain, except in towns where it would be impracticable by reason of the absence of public or private sewerage or of any running water system, a toilet room of suitable size and condition for the men to change their clothes therein, and provided with wash bowls, sinks or other suitable set appliances connected with running hot and cold water, and also a water closet connected with running water and separated from the said toilet room. The said water closet and toilet room shall be connected directly with the foundry building, properly heated, ventilated and protected, so far as may be reasonably practicable, from the dust of the foundry. Whoever fails to comply with this section after being requested so to do by an inspector shall be punished by a fine of not more than fifty dollars.

SECTION 138. Whoever wilfully destroys, defaces, injures or defiles any toilet appliances provided in any place of employment shall be punished by a fine of not more than fifty dollars.

SECTION 139. In any mercantile or manufacturing establishment or hotel or railroad where the nature of the work renders it necessary for any or all employees, before beginning work, to make a substantially complete change of clothing, exclusive of underclothing, separate lockers, closets or other receptacles, each with a lock and key, shall be provided for the use of such employees. Whoever violates this section shall be punished by a fine of not less than five nor more than twenty dollars.

SECTION 141. Every person operating a factory, shop or mechanical establishment where machinery is used for any manufacturing or other purpose except for elevators, or for heating or hoisting apparatus, shall keep and maintain, free of expense to the employees, such medical or surgical chest, or both, as shall be required by the department, containing plasters, bandages, absorbent cotton, gauze, and all other necessary medicines, instruments and appliances for the treatment of persons injured or taken ill upon the premises. Every such person employing one hundred or more persons shall, if so required by the department, provide accommodations satisfactory to it for the treatment of persons injured or taken ill upon the premises, and also suitable and sanitary facilities for heating or warming food to be consumed by those employees of the factory, shop or mechanical establishment who so desire. Every person carrying on a mercantile establishment where twenty or more women or children are employed shall in the manner aforesaid provide such medical and surgical chest as the department may require. Whoever violates any provision hereof shall be punished by a fine of not less than five nor more than five hundred dollars for every week during which such violation continues.

SECTION 141A. No person or persons employed in a textile factory, whose principal employment is the mending or repairing of machinery, shall be required to lift by hand, as a regular part of his or their duties, any object or objects the combined weight of which totals more than three hundred and twenty-five pounds.

SECTION 142. All publishers and printers shall use a sanitary cloth or other sanitary material in cleaning their presses.

SECTION 142A. No person shall keep for sale, sell, transport or store, and no person shall have for use in any manufacturing, mechanical or mercantile establishment, or in any other place of employment, benzene represented by the chemical formula C_6H_6 , in sections one hundred and forty-two B to one hundred and forty-two F, inclusive, called benzol, carbon tetrachloride or other substance which, in the opinion of the departments of labor and industries and of

public health, acting jointly, is so hazardous to health as to warrant regulation, in any receptacle other than part of a vehicle used exclusively for outdoor transportation, unless such receptacle is marked with the words "Benzol," "Carbon Tetrachloride" or "Name of Substance," together with such warning as the commissioners of the department of labor and industries and of the department of public health jointly by reasonable rules may require.

SECTION 142B. No person shall keep for sale, transport or store, and no person shall have for use in any manufacturing, mechanical or mercantile establishment, or any other place of employment, any material containing benzol, carbon tetrachloride or other substance which, in the opinion of the department of labor and industries and the department of public health, acting jointly, is so hazardous to health as to warrant regulation, in any receptacle other than part of a vehicle used exclusively for outdoor transportation, unless such receptacle is marked with one of the following combinations of words: "Contains benzol," "Contains carbon tetrachloride" or "Contains (name of substance)," together with such warning as the commissioners of the department of labor and industries and of the department of public health jointly by reasonable rules and regulations may require.

SECTION 142C. The words and any warning required by sections one hundred and forty-two A and one hundred and forty-two B shall be clear and conspicuous, and shall be of such size and so placed as the commissioners of the department of labor and industries and of the department of public health jointly by reasonable rules and regulations may require.

SECTION 142D. The commissioners of the department of labor and industries and of the department of public health acting jointly may, by reasonable rules and regulations, exempt from the provisions of sections one hundred and forty-two A and one hundred and forty-two B, under such restrictions as they may deem advisable, (a) closed receptacles which are in the possession of the manufacturer by whom the contents of such receptacles were made or compounded or of a common carrier, provided in each case the commissioners are satisfied that such contents are to be used only outside the commonwealth; (b) receptacles containing material used exclusively as motor fuel; (c) receptacles containing material which, as last compounded, contained a per cent by weight of benzol, carbon tetrachloride or other substance which the commissioners determine to be not so hazardous to health as to warrant regulation.

SECTION 142E. For the protection of persons exposed to possible injury by any material or substance which in the joint opinion of the departments of labor and industries and of public health, acting pursuant to sections one hundred and forty-two A and one hundred and forty-two B, is so hazardous to health as to warrant regulation, the commissioners of the departments of labor and industries and of public health, acting jointly, may by reasonable rules and regulations require such reports as they may deem advisable covering the manufacture, sale, receipts, possession or use of any such material or substance.

SECTION 142F. Whoever violates any provision of section one hundred and forty-two A, one hundred and forty-two B or one hundred and forty-two C, or any rule or regulation made under sections one hundred and forty-two A, one hundred and forty-two B, one hundred and forty-two C, one hundred and forty-two D and one hundred and forty-two E, and whoever, being charged with the duty of marking any receptacle containing benzol, carbon tetrachloride or other substance which in the joint opinion of the departments of labor and industries and of public health, is so hazardous to health as to warrant regulation, or any material in which benzol, carbon tetrachloride or other substance which, in the opinion of said departments, acting jointly, is so hazardous to health as to warrant regulation, is contained, fails so to mark the same, and whoever wilfully removes or defaces any marking made in accordance with any said provisions or rules and

regulations shall be punished by a fine of not more than one hundred dollars.

SECTION 142G. The department of labor and industries shall enforce the provisions of sections one hundred and forty-two A to one hundred and forty-two F, inclusive, and the rules and regulations made thereunder in any manufacturing or mechanical establishment or in any other place of employment in so far as the same relate to the health of employees, and the department of public health shall enforce the provisions of said sections and the rules and regulations made hereunder in so far as they apply to the keeping and storage for sale to the public in any mercantile establishment of any of the substances or materials referred to in said sections.

The rules and regulations relative to benzol, carbon tetrachloride, or other substances deemed hazardous to health contained in printed Industrial Bulletin No. 11 and which are in effect immediately prior to the effective date of this act, shall continue in full force and effect until superseded by new rules and regulations adopted by the commissioners of the department of labor and industries and of the department of public health, acting jointly, pursuant to the provisions of sections one hundred and forty-two A to one hundred and forty-two E, inclusive, of chapter one hundred and forty-nine of the General Laws, as appearing in sections one to five, respectively, of this act.

MISCELLANEOUS PROVISIONS

SECTION 159B. Any employer who requests or requires a person who is a present or prospective employee to undergo a medical examination by a physician designated by the employer, as a condition to securing or continuing employment, shall reimburse said person for the medical expenses requested or required.

SECTION 175. Manufacturers and others employing workmen may, for the purpose of giving notice to them, ring bells or use whistles and gongs of such size and weight and in such manner and at such hours as the aldermen or selectmen may designate in writing.

SECTION 176. If, in an emergency, special police officers are appointed under the name of police officers or any other name, to act as police officers for quelling a riot or disturbance or for protecting property, no non-resident of the commonwealth shall be so appointed unless he is a regular employee of the person whose property he is so appointed to protect.

SECTION 177. A person may, if his property is in danger, call upon the regular police authorities in the commonwealth for assistance in its protection, and this and the preceding sections shall not limit or diminish such right; but no person shall request or authorize any person or body of persons not residents of the commonwealth, except regular employees, to assist such persons with arms in the defence of his property, and no such request or authority shall justify an assault or attack with arms by a non-resident. Whoever, being an employer of labor, requests or authorizes assistance in violation of this section, and whoever renders such assistance with arms, shall be severally liable in damages to each person or property thereby.

SECTION 177A. No person shall, by a special contract with his employees, exempt himself from liability which he may be under to them for injuries suffered by them in their employment and resulting from the negligence of the employer or of a person in his employ.

SECTION 178. No owner, superintendent or overseer in any manufacturing, mechanical or mercantile establishment shall employ or permit to be employed therein any person entitled to vote at an election, during the period of two hours after the opening of the polls in the voting precinct, ward or town in which such person is entitled to vote, if he shall make application for leave of

absence during such period.

SECTION 178D. Employees of the commonwealth or any political subdivision thereof shall have the right to form and join vocational or labor organizations and to present proposals relative to salaries and other conditions of employment through representatives of their own choosing. No such employee shall be discharged or discriminated against because of his exercise of such right, nor shall any person or group of persons, directly or indirectly, by intimidation or coercion, compel or attempt to compel any such employee to join or refrain from joining a vocational or a labor organization. This section shall not be applicable to police officers in the uniform branch of the division of state police. Whoever violates any provision of this section shall be punished by a fine of not more than two hundred dollars.

SECTION 178E. If a dividend is declared or a reduction in rate is made under any group insurance policy, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

SECTION 178F. Employees of the commonwealth shall have the right to form, join and assist any employee organization having as its primary purpose the improvement of working conditions among the employees of the commonwealth; or to refrain from any such activity. Such employees may, except as hereinafter provided, participate in the management of such organization and may act as a representative of such organization and present the views of the organization to officials of the executive department, to the general court or to any other appropriate agency or authority; provided, however, that no employee of the commonwealth shall participate in the management of such employee organization or act as its representative, if such participation or activity would be incompatible with law or with his official duties as employee, such incompatibility to be determined by the director of personnel and standardization.

The commonwealth, through its department or agency heads acting as agents, shall grant recognition to employee organizations, and such department or agency shall have authority to enter into agreements with such organizations relative to conditions of employment not in conflict with statutes of the commonwealth or rules and regulations made pursuant to statutes.

The director of personnel and standardization, subject to the approval of the commissioner of administration and finance, shall make, and from time to time may amend, rules governing recognition of employee organizations; procedures for determining appropriate employees units, based on community of interest which may include similar working conditions, common supervision and physical location. In establishing procedure for resolving disputes or questions of recognition of employee organizations, the director of personnel shall use the services of the labor relations commission as provided in chapter one hundred and fifty A.

It shall be unfair labor practice for any employee of the commonwealth, or for the representative of any such employee, or for any other person, to engage in, induce or encourage any strike, work stoppage, slowdown or withholding of services by such employees.

As used in this section the term "employee organization" shall mean any duly formed association or labor organization, federation or council, the membership of which is composed of employees of the commonwealth.

SECTION 178O. An employer terminating employment of an employee insured under a group insurance policy shall, within ten business days, notify said employee of the date upon which his coverage under his group insurance policy shall terminate.

SECTION 179. The department may require employers to post in conspicuous positions in any place of employment such placards, posters or signs for the information of employees as it may issue.

SECTION 179B. The owner of every factory, workshop, manufacturing, mechanical, mercantile or other establishment or industry in which twelve or more persons are employed shall, upon the commencement, or a change of location, of its operations within the commonwealth, give notice thereof to the commissioner in such form as the commissioner shall prescribe. Whoever knowingly violates this section shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than two months, or both.

SECTION 180. Whoever violates the provision of this chapter for which no specific penalty is provided shall be punished by a fine of not more than one hundred dollars.

CHAPTER 665 OF THE ACTS OF 1973

An Act Authorizing the Commissioner of Labor and Industries to Suspend the Operation of Certain Labor Laws

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to provide for the alleviation of emergency or hardship conditions in any industry, branch of an industry, or individual establishment, by continuing without interruption the temporary authority of the commissioner of labor and industries to suspend the application or operation of any provision of chapter one hundred and forty-nine of the General Laws of any rule or regulation made thereunder, regulating, limiting or prohibiting the employment of women, or of minors over the age of sixteen, or both, therefore it is hereby declared to be an emergency law, necessary for the immediate protection of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of labor and industries is hereby authorized, in conformity with Article XX of Part the First of the Constitution of the Commonwealth, to suspend until July first, nineteen hundred and seventy-five the application or operation of any provision of chapter one hundred and forty-nine of the General Laws or of any rule or regulation made thereunder, regulating, limiting or prohibiting the employment of women, or of minors over the age of sixteen, or both. The commissioner shall exercise this authority when he finds, after opportunity has been given to interested parties to be heard, that an emergency exists or that conditions of hardship in an industry, branch of an industry, or individual establishment require or justify the suspension of any provision of such laws, rules or regulation. Suspensions issued by the commissioner shall prescribe, and may be either granted or limited to, one or more particular departments, operations or occupations within an establishment, or a particular industry or branch of an industry. The commission shall appoint industry advisory committees, on which employers and employees shall be equally represented, to consult and advise with him in matters relating to the suspension authorized by this act.

SECTION 2. Section one of this act shall take effect as of July first, nineteen hundred and seventy-three.

SECTIONS OF CHAPTER 23 GENERAL LAWS (TER. ED.) Department of Labor and Industries

SECTION 1. There shall be a department of labor and industries, under the supervision and control of a commissioner of labor and industries, in this chapter called the commissioner, an assistant commissioner, who shall be a woman, and three associate commissioners, one of whom shall be a representative of labor and one a representative of employers of labor.

SECTION 2. Upon the expiration of the term of office of a commissioner, an assistant commissioner or an associate commissioner, his successor shall be appointed by the governor for a term coterminous with that of the governor. The commissioner shall receive a salary of twenty thousand six hundred and seventy dollars, the associate commissioner who is appointed to serve as chairman of the board of conciliation and arbitration shall receive a salary of twenty thousand dollars while he is serving as such chairman, the assistant commissioner shall receive a salary of fifteen thousand dollars and the other associate commissioner shall receive a salary of twelve thousand three hundred and thirty-four dollars.

SECTION 2. Said chapter 23 is hereby further amended by striking out section 7, as appearing in the Tercentenary Edition, and inserting in place thereof the following section:—

SECTION 3. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations except as otherwise provided. He shall organize in the department a division of standards, a division on the necessities of life, a division of occupational hygiene, a division on the employment of the aging under the direct supervision of the assistant commissioner, and such other divisions as he may from time to time determine. . . . He shall prepare for the consideration of the assistant commissioner and the associate commissioners rules and regulations for the conduct of the department and all other rules and regulations which the department is authorized by law to make, and they shall, except as otherwise provided, take effect when approved by the associate commissioners and the assistant commissioner, or upon such date as they determine. The commissioner may designate the assistant commissioner or an associate commissioner to discharge the duties of the commissioner during his absence or disability.

SECTION 4. The commissioner, assistant commissioner and associate commissioners may, with the approval of the governor and council, appoint not more than six directors, and may, with like approval, remove them. One of them, to be known as the director of standards and necessities of life, shall have charge of the division of standards and of the division on the necessities of life, and each of the others shall be assigned to take charge of a division, other than the division of unemployment compensation or its successor. The commissioner may employ, for periods not exceeding ninety days, such experts as may be necessary to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from chapter thirty-one. Except as otherwise provided, the commissioner may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. Such number of inspectors as the commissioner may deem necessary, shall be men who, before their employment as such, have had at least three years' experience as building construction workmen. The commissioner may require that certain inspectors in the department, not more than seven in number, shall be persons qualified by training and experience in matters relating to health and sanitation.

SECTION 5. All directors, inspectors and other permanent employees of the department shall devote their whole time to the affairs of the department; and all directors and inspectors and such other employees as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and council. The commissioner, assistant commissioner and associate commissioners shall determine from time to time how many of the inspectors employed shall be women.

SECTION 6. In all matters relating specifically to women and minors the assistant commissioners shall have and exercise such duties and authority as may be prescribed by the commissioner, with the approval of the associate commissioners.

SECTION 7. The associate commissioners shall constitute the board of conciliation and arbitration, and shall have the powers and perform the duties given them by chapter one hundred and fifty relative to conciliation and arbitration of industrial disputes. The governor shall designate, from time to time, one of the commissioners to serve as chairman, who shall be executive head of the board.

GENERAL PROVISIONS

SECTION 12. The department, in addition to offices in the state house, shall be provided with offices elsewhere in the commonwealth if approved by the governor and council.

SECTION 13. The department may expend for the traveling expenses of its members and employees incurred in the performance of their duties and for other necessary expenses of the department such sums as are annually appropriated therefor.

SECTION 1, CHAPTER 5, GENERAL LAWS (TER. ED.), AS AMENDED Relative to Bids and Contracts for State Printing and Binding and Furnishing Certain Office Supplies Under the Supervision of the State Purchasing Agent.

The commission on administration and finance, or any other awarding official, in the advertising for bids or the placing or orders for the execution of printing, composition, proof reading, presswork, all processes used in the making of printing plates, paper ruling and binding, or for the supplying of office stationery and blank books without printed headings, for the several departments of the government of the commonwealth other than the legislative department, shall take into consideration the facilities of the several bidders including sub-contractors or other employers of the several establishments, or of the several establishments under consideration in the matter of placing such orders, as the case may be, as well as the terms offered. Contracts or orders shall be given to such establishments only as pay the prevailing rate of wages, based on wage rates and working hours that have been established by collective bargaining agreement or understanding between organized labor and employers; provided, that nothing herein contained shall prevent said commission, or any other awarding official, from placing contracts or orders with existing state institutions or departments which furnish printing or other work of the kind and character above mentioned. Said commission, or other awarding official, may reject any and all bids received.

The prevailing rate of wages shall be determined by the commissioner of labor and industries as herein provided. Said prevailing rates shall be based on wage rates and working hours that have been established by collective bargaining agreement or understanding between organized labor and employers in the printing and binding industry. The commissioner of labor and industries shall upon application from the commission on administration and finance prepare and furnish for the use of said commission or other awarding officials, a list of the several classifications of labor usually performed by the employees in the printing and binding trades together with the prevailing rate of wages and working hours.

Every contractor, sub-contractor or other employer engaged in any work to which this section applies shall keep a true and accurate record of all employees, showing the name, address and occupational classification of each employee, and the hours worked by, and the wages paid to, each such employee, and shall furnish to said commissioner upon his request a true statement of the contents of such record. Such records shall be kept in such manner as said commissioner shall prescribe, and shall be open to inspection by an authorized representative of said commission or of the department of labor and industries at any reasonable time

and as often as may be necessary.

Whoever, as a contractor, sub-contractor or other employer engaged in any work to which this section applies or whoever, for himself or as an agent, superintendent or foreman for another, fails to pay the determined prevailing rate of wages or otherwise violates any provision of this section shall be punished for a first offence by a fine of not less than twenty-five nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment for not more than three months, or both. Whoever shall have been convicted of a second violation of any provision in this section shall be prohibited from contracting, directly or indirectly, with the commonwealth for, or from performing, any work covered by this section as contractor or sub-contractor, for a period of two years from the date of said conviction.

Bonds, satisfactory to said commission, or other awarding official, may be required to be given by the party to whom any contract is awarded, to secure its faithful performance.

The department of labor and industries shall enforce this section, and shall have all the necessary powers therefor.

CHAPTER 96 OF THE ACTS OF 1959

An Act Providing for the Purchase by the Commonwealth of Meat and Meat Products Only From Industries Based on Prevailing Wage Rates and Working Hours

Section 22 of chapter 7 of the General Laws is hereby amended by inserting after clause (17) the following clause:—

(18) Contracts or orders for meats and meat products shall be given to such establishments only as pay the prevailing rate of wages, based on a working day of eight hours, with not more than forty hours in any one week. The prevailing rate of wages shall be determined by the commissioner of labor and industries as herein provided. Said prevailing rates shall be based on wage rates and working hours that have been established in the meat and meat products industry by collective agreement or understanding between organized labor and employers. At least once in six months said commissioner shall prepare and furnish for the use of said commission, or other awarding officials, a list of the several classifications usually performed by the employees in the meat and meat products industry together with the prevailing rate of wages and working hours.

Every contractor, sub-contractor or other employer, engaged in any work to which clause (18) applies shall keep a true and accurate record of all employees, showing the name, address and occupational classification of each employee, and the hours worked by, and the wages paid to, each such employee, and shall furnish to said commissioner upon his request a true statement of the contents of such record. Such records shall be kept in such manner as said commissioner shall prescribe, and shall be open to inspection by any authorized representative of said commission or of the department of labor and industries at any reasonable time and as often as may be necessary.

Whoever, for himself or as an agent, superintendent or foreman for another, violates any provision of clause (18) shall be punished for a first offence by a fine of not less than twenty-five nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment for not more than three months, or both. Whoever shall have been convicted of a second violation of any provision of clause (18) shall be prohibited from contracting, directly or indirectly, with the commonwealth for, or from performing, any work covered by this section as contractor or sub-contractor for a period of two years from the date of said conviction.

Bonds, satisfactory to said commission, or other awarding official, may be required to be given by the party to whom any contract is awarded, to secure its faithful performance under clause (18).

CHAPTER 248

An Act Regulating Purchases of Items of Apparel by the Commonwealth

Be it enacted, etc., as follows:

SECTION 1. Section 22 of chapter 7 of the General Laws is hereby amended by inserting after clause (18) the following clause: —

(19) Contracts or orders for items of clothing or apparel shall be given to such establishments only as submit to the commissioner the name and address of the manufacturer of such items, and the names and addresses of any and all contractors of such items, and only to such establishments as pay the prevailing rate of wages, determined by the commissioner of labor and industries as herein provided. Said prevailing rates shall be based on wage rates and working hours that have been established by collective bargaining agreement or understanding between organized labor and employers in the apparel industry. The commissioner of labor and industries shall upon application from the purchasing agent prepare and furnish for use of said purchasing agent or other awarding official a list of the several classifications of labor usually performed by the employees in the apparel trades, together with the prevailing rate of wages and working hours. A written declaration by the bidder on said contracts or orders for items of clothing or apparel, upon submission of his bid, that each garment to be purchased shall have a union label affixed to such garment shall be sufficient evidence that said manufacturer or contractor pays the prevailing rate of wages based on wage rates and working hours established by collective bargaining or understanding between organized labor and the employer.

SECTION 2. The second paragraph of clause (18) of said section 22 of said chapter 7, as most recently amended by section 20 of chapter 757 of the acts of 1962, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:—Every contractor, subcontractor or other employer, engaged in any work to which clause (18) and clause (19) apply, shall keep a true and accurate record of employees, showing the name, address and occupational classification of each employee, and the hours worked by, and the wages paid to, each such employee, and shall furnish to the commissioner of labor and industries upon his request a true statement of the contents of such record.

SECTION 3. The third paragraph of said clause (18) of said section 22 of said chapter 7, as amended by chapter 96 of the acts of 1959, is hereby further amended by inserting after the first sentence the following sentence:—Whoever, as a manufacturer, contractor, jobber or other employer engaged in any work to which clause (19) applies or whoever for himself or as an agent, superintendent or foreman for another, fails to pay the determined rate of wages or otherwise violates any provision of clause (19) shall be punished for a first offense by a fine of not less than one hundred nor more than five hundred dollars, and for a subsequent offense by a fine of not less than two hundred and fifty nor more than one thousand dollars, or by imprisonment for not more than three months, or both.

SECTION 4. Said third paragraph of said clause (18) of said section 22 of said chapter 7, as so amended, is hereby further amended by inserting after the number "(18)", wherever it appears, the words:—and clause (19).

SECTION 5. The fourth paragraph of said clause (18) of said section 22 of said chapter 7, as so amended, is hereby further amended by adding the words:—or clause (19).

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Seventy-three

AN ACT PROVIDING THAT CERTAIN DISEASES RESULTING IN DEATH OR DISABILITY TO EMPLOYEES OF THE INCINERATOR OF THE CITY OF NEWTON BE PRESUMED TO HAVE BEEN SUFFERED IN LINE OF DUTY.

Be it enacted by the Senate and House of Representative in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any provision of general or special law to the contrary affecting the non-contributory or contributory retirement system, any condition of impairment of health caused by any disease of the lungs or respiratory tract, resulting in total disability or death to a full-time employee of the public works department engaged full time in the operation of the city of Newton incinerator, shall, if he successfully passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition, be presumed to have been suffered in the line of duty, as a result of the inhalation of noxious fumes or poisonous gases, unless the contrary be shown by competent evidence.

SECTION 2. The additional cost of any pension or retirement allowance resulting from the operation of section one of this act shall be paid for by the city of Newton.

SECTION 3. This act shall become inoperative four years after its effective date, provided, however, that if the commissioner of the department of labor and industries fails to certify that the city of Newton incinerator is operating within standards at least as high as those set by the Occupational Health and Safety Act (P.L. 91-596), this act shall remain in effect for one additional year.

House of Representatives,

September 13, 1973.

Passed to be enacted,

Acting
Thomas W. Mc Gee, Speaker.

In Senate, September 13, 1973.

Passed to be enacted,

Kevin B. Harrington, President.

September 21, 1973.
Approved,

Francis W. Sargent
Governor.

APPENDIX — I

Attorney General's Decisions

of

September 30, 1970

and

October 5, 1971

September 30, 1970

Mrs. Glendora M. Putnam, Chairman
Massachusetts Commission Against
Discrimination
120 Tremont Street
Boston, Massachusetts 02108

Dear Mrs. Putnam:

You have requested my opinion regarding the continuing validity of Massachusetts laws regulating the employment of women in light of Title VII of the Civil Rights Act of 1964. You refer particularly to G.L. c. 149, SS 53-59 and 99-103 and generally to "all other sections which have the effect and regulate the employment of women."

Massachusetts has statutes prohibiting women from lifting or carrying objects in excess of forty pounds, G.L. c. 149, S 53A; restricting working hours for women in various types of employment to nine hours daily and forty-eight hours weekly (with certain enumerated exceptions and permissible waivers by the Commissioner of Labor and Industries), G.L. c. 149, S 56-58; and prohibiting, under various conditions, the employment of women at certain hours of the night, G.L. c. 149, S 59. Other provisions particularly referred to in your letter are G.L. c. 149, S 53 (pulleys or casters required for receptacles moved by women); S 54 (core rooms where women are employed); S 55 (employment of women before or after childbirth); S 99 (mealtimes); S 100 (hours of work without interval for meal); S 101 (nonapplicability of statutes relating to mealtimes and intervals for meals); S 102 (labor during mealtime without knowledge of employer); and, S 103 (seats for employees). That these laws were enacted for the purpose of protecting the health of women does not appear to be in dispute. See, e.g., *Broussard v. Melong*, 322 Mass. 560, 562.

Section 703(a) of Title VII of the Civil Rights Act of 1964 (42 U.S.C. S 2000e - 2a) provides:

"(a) It shall be an unlawful employment practice for an employer []

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

(2) to limit, segregate or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."

Massachusetts law also prohibits discrimination in employment by reason of sex, G.L. c. 151B, S 4(1), but specifically excepts the provisions in Chapter 149 applicable to women. G.L. c. 151B, S 9.

The only statutory exception to section 703(a) of Title VII occurs "where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of (the) particular business or enterprise." 42U.S.C. S 2000e - 2e (1964). The Equal Employment Opportunity Commission, which administers the provisions of the Civil Rights Act of 1964, has set forth the following guideline relating to sex as a bona fide occupational qualification:

"(1) Many States have enacted laws or promulgated administrative regulations with respect to the employment of females. Among these laws are those which prohibit or limit the employment of females, e.g., the employment of females in certain occupations, in jobs requiring the

1 42 U.S.C. S 2000e(b) defines an employer as a person engaged in interstate commerce with twenty-five or more employees for each working day in each of twenty or more calendar weeks of the year.

lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, or for more than a specified number of hours per day or per week."

"(2) The Commission believes that such State laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferences, and abilities of individual females and tend to discriminate rather than protect. Accordingly, the Commission has concluded that such laws and regulations conflict with Title VII of the Civil Rights Act of 1964 and will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception."

34F.R. 13367, S 1604.1(b) (August 19, 1969).

Your request for clarification as to the continuing validity of the cited provisions of c. 149 of the General Laws derives urgency from the fact that many employers, beset with the claims of qualified women employees for equal access to job classifications and overtime hours that are blocked by the operation of certain of those provisions, are caught between the state and Federal laws and stand to violate one by compliance with the other.

Individual instances of direct conflict between state laws of this kind and the Civil Rights Act of 1964 have been adjudicated in favor of the Federal act. *Rosenfeld v. Southern Pacific Co.*, 293 F. Supp. 1219 (C.D. Cal. 1968); *Caterpillar Tractor Co. v. Grabiec*, 39 U.S.L.W. 2152-53 (S.D. Ill. 1970) (state statutes limiting hours and weight-lifting for women); *Bowe v. Colgate-Palmolive Co.*, 416 F.2d 711 (7th Cir. 1969) (state statute limiting weight lifting); *Richards v. Griffith Rubber Mills*, 300 F. Supp. 338 (D.C. Ore. 1969) (state regulation limiting weight lifting).² The decisions have centered on the operation of the Supremacy Clause (Art. VI, S2) of the Constitution of the United States *whereby the state law must yield when its application deprives a citizen of a right to which he is entitled* under a law enacted pursuant to the Federal Constitution. *Gibbons v. Ogden*, 22 U.S. (9 Wheat. 1, 210 (1824)). In these instances, the right denied has been access to a job, job classification or other employment privilege protected by the Civil Rights Act of 1964.

The finding of such a conflict has necessarily implied a finding that the relevant employment circumstances would not justify application of the bona fide occupational qualification exception. Such a finding has been made by the courts regarding a 35-pound weight lifting limitation (*Bowe v. Colgate-Palmolive Co.*, *supra*, at 715); a job as press operator, occasionally requiring lifting as much as 60 pounds (*Richards v. Griffith Rubber Mills*, *supra*, n. 3); and, a job as switchman "subject to call out 24 hours a day . . . and sometimes required to work along during late night hours, including the period from midnight to 6 a.m." (*Weeks v. Southern Bell Telephone & Telegraph Co.*, 408 F.2d 228, 234 (5th Cir. 1969)). The court in *Weeks* held a broad construction of the bona fide occupational qualification to be inconsistent with the purposes of the Federal act, and placed upon the employer the burden of showing that he had reasonable cause to believe *that all or substantially all women would be unable to perform safely and efficiently the duties of the job involved*. 408 F.2d at 235.

Your inquiry requires me to determine whether there is such a prima facie conflict apparent with regard to the provisions of chapter 149.

The authorities on conflicts between state and Federal laws define *two conditions upon which the state law must yield*: (1) if the latter stands as an Obstacle to the accomplishment and execution of the full purposes and objectives of Congress (*Hines v. Davidowitz*, 312 U.S. 52, 67) or (2) if it is manifestly evident

2 For a comprehensive listing of judicial and quasi-judicial treatment of state protective legislation to date, see Pressman, *Revolution in Women's Employment Rights*, 44 Florida Bar Journal, No. 6, p. 29.

that Congress intended to preempt the field and bar any state law or regulation of the kind in question (*Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230). Because the courts have strictly construed the latter condition, and because the language of the Federal act suggests directly otherwise,³ I find no Congressional intention to bar the states from legislating to protect the health of female employees.

However, applying the other standard, it is my opinion that the flat, inflexible restrictions of the Massachusetts statutes upon *weight lifting, working hours and night duty for women, without regard to their individual wishes or abilities*,⁴ stands as a serious obstacle to the accomplishment of the full purposes of Title VII. Such restrictions, while designed to protect women from exploitation in strenuous or heavy industry, have the effect of denying women access to certain jobs, classifications and overtime privileges to which they are entitled under the Federal act.⁵ Hence no operation or application whatsoever of G.L. c. 149, S 53A or SS 56-59 could withstand a challenge based upon that act.

The Massachusetts Legislature, in initially providing these restrictions, assumed, and I think rightfully, that certain women in certain industries required and desired such protection. However, with the passage of the Civil Rights Act of 1964, it is now undeniably clear that such protection cannot be forced upon women who do not require it. Seen from this perspective, the inflexible restrictions of the Massachusetts statutes go beyond their protective purpose and, although unintentionally and inconsistently with their original purpose, run a foul of Title VII of the 1964 Civil Rights Act. This does not mean that the Commonwealth can no longer legislate in the fashion now in question. However, if it chooses so to legislate, it can do so only to the extent of making the protection of hours, weight, etc. statutes voluntarily available to individual employees, to invoke or not as the employees see fit. The statutes, in other words, must be tailored to the individual, allowing those who wish to work to work (assuming they are otherwise qualified), and those who wish not to work to be protected in this refusal.

I hasten to add that this result is not true for employers not covered under the Civil Rights Act of 1964⁶ and, hence, outside Federal jurisdiction. These employers are obliged to conform with all of the provisions of chapter 149.

A different conclusion regarding conflict with Federal law is required concerning the other statutes to which you specifically refer, G.L. c. 149, SS53, 54, 55 and 99-103. These provisions decree particular steps to be taken with regard to women employees which do not of themselves deny Federally protected rights. Section 53, for example, requires casters to be provided on receptacles weighing (with contents) over 75 pounds, that are to be moved by women. I can see in S 53 no inherent obstacle to the accomplishment of the purposes of the Federal act. See *Hines v. Davidowitz*, *supra*, at 67. There is no necessity that employers violate the latter by complying with the former; the required installation of casters need not deny women access to employment rights, privileges or opportunities open to males. Indeed, deferring as I must to the legislative determination of a need for such a protective measure, this provision insures such

3 42 U.S.C. 2000e-7 (1964) states: "Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title." See, also, 42 U.S.C. 2000h-4 (1964).

4 It might be observed that in this regard the statute goes beyond its protective purpose, which could presumably be achieved by making the protection which the legislature has seen fit to provide voluntarily available to individual employees and barring only compulsion to work under the proscribed conditions.

5 The enumeration of certain exceptions in S 56 and conditions in S 59 does not remedy this defect, as women are still excluded from other employment opportunities not falling under the bona fide occupational qualification exception. Cf. *Rosenfeld v. So. Pac. Co.*, *supra*, 293 F. Supp. at 1224.

6 See note 1, *supra*.

access. In the same manner I find no conflict necessary between Federal law and the statutes relating to core rooms (S 54), ⁷ childbirth (S 55), mealtimes (SS 99-102) and seats (S 103).

While I do not find these latter provisions void on their face, this is not to suggest that a denial of rights clearly protected under the Civil Rights Act could be excused by reason of their affirmative requirements. An employer could not, for example, refuse to hire women for a job requiring the use of receptacles because state law requires the installation of casters.⁸

Your letter also inquires about the validity of other Massachusetts statutes which regulate the employment of women. If you wish to particularize with respect to any other such statutes not dealt with in this opinion, I will be happy to advise you further.

Very truly yours,

ROBERT H. QUINN
Attorney General

RHQ:AMJ

March 5, 1971

Mrs. Glendora M. Putnam, Chairman
Massachusetts Commission Against
Discrimination
120 Tremont Street
Boston, Massachusetts

Dear Mrs. Putnam:

On September 30, 1970, I rendered an opinion to you regarding the continuing validity of certain specified Massachusetts laws regulating the employment of women. My opinion stated that sections 53A, 56, 58 and 59 of Chapter 149 of the Massachusetts General Laws were in conflict with Title VII of the Civil Rights Act of 1964 (42 U.S.C. S 2000e) and, as such, had been preempted and were null and void. I also stated that sections 53, 54, 55, 99 and 100-103 of Chapter 149 did not frustrate the purpose of Title VII and, as such, were not preempted by the Federal act. Subsequent to the issuance of the September 30th opinion, I have had cause to modify my decision with respect to most of the statutes previously listed as not preempted.

I am now of the opinion that the existence of a half-hour meal period for women mandated by G.L. c. 149, S 100 (as opposed to a required fifteen minute period for men) denies to women, in some instances, an extra fifteen minutes of compensated employment during the course of the working day. More importantly, however, the half-hour meal requirement extends a woman's working shift fifteen minutes beyond that of her male co-workers and, in so doing, prevents her from being available to compete for overtime work commencing at the end of the male work shift. Consequently, both the direct and indirect effect

7 Under S 54 the Department of Labor and Industries is authorized to issue rules regulating the employment of women in foundry core rooms. Such rules as have been adopted (*Mass. Board of Labor and Industries, Bill, No. 10* (Feb. 7, 1917)) do not necessitate a denial of employment rights or opportunities, with one exception. The rule prohibiting lifting cores above a specified size and weight (1 cubic foot or 25 pounds) without an assisting mechanical appliance (*Id.*, S 30, para. 1) is an affirmative requirement and therefore does not collide with Federal law, but the rule immediately following (S 30, para. 2) prohibits any female, regardless of desire or ability, from working on any core exceeding 2 cubic feet or 60 pounds and hence conflicts with the Federal act.

8 The same theory would apply to a claim that provisions such as sections 53, 54, 55 and 99-103 constitute a denial of Federally protected rights of male employees by treating women preferentially. On their face alone there is no necessity that compliance with them need deny any such rights as an employer is not required to take the prescribed protective measures only for female employees. This is not to suggest that a male employee would be barred from suing under the Civil Rights Act for equivalent terms and conditions of employment. I intimate no opinion as to whether a Federal court would deem the measures required under such provisions to constitute rights or privileges covered under the Federal act, or as to the effect of the language of 42 U.S.C. S 2000e-7 (see note 2 *supra*) on such a question.

of the half-hour mealtime provision is to deny to women an employment opportunity for which they are otherwise qualified. Such a denial constitutes discrimination in employment opportunity based upon sex and is in violation of Title VII. Accordingly, in so far as sections 100, 101, and 102 of Chapter 149 require that women take one-half hour for any meal, those sections are preempted and are null and void.

Likewise, it is my opinion that section 55 of Chapter 149 (which prohibits all females, regardless of medical condition, from working during the four weeks preceding and the four weeks subsequent to childbirth) is that type of inflexible class regulation which is not tailored to the physiological characteristics of individual workers and as such, is preempted by Title VII. See, for a statement of the aforementioned standard against which state "protective" laws must be judged, *Bowe v. Colgate-Palmolive Company*, 416 F.2d 711, 717-18 (7th Cir. 1969); *Weeks v. Southern Bell Telephone & Telegraph Company*, 408 F. 2d 228, 235-36 (5th Cir. 1969); *Cheatwood v. Southern Bell Telephone & Telegraph Company*, 303 F. Supp. 754, 759-60 (M.D. Alabama 1969); *Richards v. Griffith Rubber Mills*, 300 F. Supp. 338, 340 (D. Oregon 1969); *Jones Metal Products Co. v. Walker*, 2 FEP Cases 1113 (D. Ohio 1970); *Local 246 Utility Workers v. Edison Co.*, 3 FEP Cases 21 (N.D. Calif. 1970). Accordingly, section 55 of Chapter 149 is null and void.

And, finally, it is my opinion that Title VII also preempts the following portions of Chapter 149: section 53 (requiring pulleys or casters on receptacles weighing more than seventy-five pounds which are moved by women), section 54 (requiring the investigation and regulation of core rooms where women are employed) and section 103 (requiring that employers provide seats for women both at and away from their area of work).

Evaluation of these latter sections is made more difficult by the fact that they benefit rather than discriminate against women. However, Title VII was passed, not to aid women workers, but to outlaw employment discrimination based upon sex. As one Court has stated: "it seems unlikely that Congress would enact a statute banning discrimination based on sex and in doing so mean to grant special privileges to one sex at the expense of another." *Rosen v. Public Service Electric Co.*, 2 FEP Cases 1090, (D.N.J. 1970). Because sections 53, 54 and 103 contain classifications based exclusively upon sex, and because those classifications have the effect of discriminating against male workers, it is my opinion that those sections are in violation of Title VII and as such are null and void.

Very truly yours,

ROBERT H. QUINN
Attorney General

RHQ: AMJ



